

Scrape Herdmore Mech: Coll. 3702
1703

T H E
T R I A L

O F
Lieutenant Colonel Cockburne,

L A T E

G O V E R N O R

O F T H E

Island of St. E U S T A T I U S,

F O R T H E

LOSS of the said ISLAND.

Before a Court Martial held at the Horse Guards,

On *Monday, May 12th, 1783, and Nine subsequent Days;*

T A K E N I N S H O R T H A N D,

By E. HODGSON, SHORT HAND WRITER at the OLD BAILEY,
And Published by Authority.

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[PRICE THREE SHILLINGS.]

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AT THE
HORSE GUARDS,
 MONDAY, MAY 12, 1783.
 FIRST DAY'S PROCEEDINGS
 ON THE
T R I A L
 OF
COLONEL COCKBURNE.

The COURT was composed of the following FIELD OFFICERS,

Lieutenant General Sir Robert Hamilton, Bart.
 Lieutenant General Hugh Earl Percy
 Lieutenant General William Taylor
 Major General John Douglas
 Major General Joseph Brome
 Colonel John Leland
 Colonel Earl of Suffolk
 Colonel Honourable Chapel Norton.

Colonel George Hotham
 Colonel Gustavus Guydickins
 Colonel Mathew Dixon
 Colonel John Hill
 Colonel Alexander Dickson
 Colonel Lord Spencer Hamilton
 Colonel Samuel Hulfe

Sir CHARLES GOULD, Judge Advocate.

The usual Oaths being administered to the Members, the following Charges were read by the Judge Advocate.

CHARGES.

THAT Lieutenant-colonel Cockburne, being governor of the island of St. Eustatius, while commanding in chief his Majesty's forces, in the island of St. Eustatius, was guilty of culpable neglect, in not taking the necessary precautions for the defence of the said island; and notwithstanding he had received intelligence of an attack, intended by the enemy upon the same; and further, that he did on the 26th day of November 1781, suffer himself to be surprized by an inferior body of French troops, which landed on

the said island without any opposition, and that he did shamefully abandon and give up the garrisons, posts and troops which were under his command: And a further charge, that he claimed and obtained from the commander in chief of the French troops, a sum of money not his own, upon the ground of its being his own private property.

(The witnesses ordered to be examined apart.)

COLONEL COCKBURNE.

Sir Charles Gould, and Gentlemen of the Court;

I am brought before this Court, where I am persuaded, justice and honour will be administered;
 but

but a very extraordinary charge has been, within these few days, exhibited against me, a charge of receiving money, not my own, which is entirely new; it was not thought of before, it was not in the original charge: To your candour I submit the consideration of it.

Judge Advocate. I should apprehend that Colonel Cockburne would wish that the charges should be examined totally distinct.

Colonel Cockburne. Certainly.

Lieutenant ROGERSON the ACCUSER.

Mr. President and Gentlemen of the Court,

Before I call in any witnesses to support the prosecution, will you permit me to produce a letter from Sir Charles Gould.

Judge Advocate. The purport of that letter states, that Lieutenant Rogerson was the first person that brought this account to government, and that is the reason, that he has been thought of, to propose the necessary questions to the witnesses by the Court: I take it for granted that is the reason, for which he wishes it to be mentioned, that the Court may see the reason of his coming here as a prosecutor.

The LETTER received from Sir Charles Gould, dated 6th of May, 1783, read.

Mr. Rogerson. I am before you Mr. President, and you Gentlemen of the Court, in a most disagreeable and most invidious light, that an officer can appear in; and I trust it is well known to every body, that it does not arise from my inclination, but my duty; I have neither rank, abilities, or fortune to support me; but in particular I most humbly and earnestly entreat your candour and patience during the course of this trial, as I never appeared at a Court of this nature before, either as a witness, prosecutor or prisoner. I was by mere accident the first officer that brought the news of this island being captured; and I declare most solemnly to this Court, that whatever my narrative said, was not the effect of malice or personal resentment, but it arose from a conscious discharge of my duty, and to vindicate the character of the British garrison, whose exertions, till that unfortunate day, have ever received the most honourable testimony; and I will be bold to say, were never surprized before by any troops in the world.

Lieutenant-colonel HEADHOUSE of the 13th regiment sworn.

Mr. Rogerson. Q. Was you present on the island of St. Eustatius at the decease of Lieutenant-general Ogilvie.

A. I was.

Sir Charles Gould to Colonel Cockburne. I take it for granted you admit your being lieutenant-colonel of that regiment, and having at the time of the capture of that island, the command of the troops.

A. Certainly.

Q. When did he die?

A. The 31st of May, 1781.

Q. Did the field officers of the garrison wait on Lieutenant-colonel Cockburne, to know if he intended to assume the command on the death of the brigadier?

A. A little time before Brigadier-general Ogilvie died, I went with the field-officers of the garrison to wait on Lieutenant-colonel Cockburne, and to acquaint him, that it was the opinion of the surgeons, who attended Brigadier-general Ogilvie, during his illness, that he could not live but two or three days; I acquainted Lieutenant-colonel Cockburne, that in consequence of the brigadier's death, the command would devolve on me, and Lieutenant-colonel Cockburne said, he was an older lieutenant-colonel by six or seven months than I, and that he would not give up the command to any officer of inferior rank; I told him at the same time, that as quarter-master-general and agent, he ought not to succeed to the command, and I offered to refer him to General Preston, a friend of the lieutenant-colonel's: Colonel Cockburne then declared before General Stopforth, Major Crawford and Major Roberts, that he would not abide by the decision of Jesus Christ: That was all that passed.

Q. Lay before the Court the strength of the regiment he commanded at the time of the capture.

A. This is the account I sent to the commander in chief soon after the surrender; 1 colonel, 2 captains, 4 ensigns, 16 serjeants, 1 quarter-master, 1 adjutant, 13 drummers, 235 private rank and file.

Cross examined by Colonel COCKBURNE.

Q. I wish to know whether that is a true copy of the return, you gave in to me officially?

A. Yes.

Q. What to me.

A. I do not recollect the return I gave in to you, but that is the return that I sent, I remember you took a return out of my hand, as I was going to deliver muster; perhaps there might be some little difference, I do not say, that was the return I sent to the commander in chief, you at that time had no right to take it out of my hand.

Colonel Cockburne. Only as much right as you had to bring it to me.

Accuser. Q. Whether he ever heard there was a post on the north-west part of the island.

A. I did.

Judge

Judge Advocate. Is any body in possession of a map or plan of the place?

Accuser. I am told Captain Garstin has one, he is in the adjoining room.

(Captain GARSTIN called in.)

I have a fort of a plan, which I did from my recollection, I just drew it out for the information of the Court.

(The map shewn to Colonel Cockburne and Lieutenant Rogerfon, and not objected to.)

Accuser. Q. In what estimation did Brigadier-general Ogilvie appear to you to hold the post called Tumbledown Dick?

A. I believe he looked upon it as a place of great importance.

Q. What force did Brigadier Ogilvie detach for the defence of that post?

A. He detached a subaltern's guard.

Q. Consisting of how many?

A. One subaltern, two sergeants, two corporals, one drummer, and twenty private men.

Q. What opinion did the inhabitants and the troops in general, entertain of the late Brigadier-general Ogilvie at the time he commanded?

A. They respected him while he lived, and regretted him when he died.

Q. I mean his character as a man, a soldier and officer, his conduct in general?

A. I believe Brigadier-general Ogilvie was always looked upon as a good officer, one very attentive to his business.

Q. Did Lieutenant-colonel Cockburne reduce the detachment at Tumbledown Dick, soon after he succeeded to the command?

A. Immediately after his decease he reduced it to a corporal and three privates.

Q. Was there an outlying picquet established by General Ogilvie, and what force did it consist of?

A. There was an outlying picquet, I believe it was established by General Ogilvie, I believe there might be a captain, 2 subalterns, 2 or 3 sergeants, corporals, and 30 privates.

Q. Were they ready for any emergency?

A. There was a room appropriated for the use of the picquet; I believe the orders were for turning out at a moment's warning.

Court. Were these collected together?

A. Yes.

Lieutenant JOHN BATHE sworn.

Q. This is the original book, containing the orders of the garrison at St. Eustatius, in which they were duly entered?

A. Yes, Sir, I was Town-major.

Lieutenant-colonel Cockburne. Q. Did Mr. Bathe act as Town-major to Brigadier Ogilvie or not?

A. I did not.

Court. Q. What is that book?

A. This is the daily orders after Colonel Cockburne took the command of the garrison, I acted as Town-major under him; there are other orders.

Court. We are now speaking of a point of time when Major Ogilvie had the command.

A. Here are the orders of Major Ogilvie, I only acted then as adjutant to one of the regiments; the 15th regiment.

Accuser. Q. I wish I may shew the Court the order, by which will appear the number of that picquet during General Ogilvie's time, I believe it is a daily order, it is dated the 30th of May, 1 captain, 2 subalterns, 2 sergeants, 2 corporals, 1 drummer, and 40 private men.

Court. Q. What is the daily detail of the guard?

A. One subaltern, 8 sergeants, 12 corporals, 1 drummer, 97 privates, exclusive of the picquet, and the detachment at Tumbledown Dick.

Lieutenant BATHE withdrawn for the present.

Accuser to Colonel Headhouse. Q. Did not Colonel Cockburne during his command, convert that picquet into an inline picquet?

A. It was made into an inline picquet; an inline picquet is when the men are reduced from the parade at evening gun firing, with orders to get under their different patrols, which was so dispersed, that in case there had been any alarm, it would have been almost impossible to have got them together again for a considerable time; that is the meaning of an inline picquet, that the men were very much dispersed, some went to one place, and some to another.

Court. Q. Were there barracks in the fort?

A. They were dispersed about the different parts of the island.

Accuser. Q. Did Colonel Cockburne communicate to you, as second in command, any intelligence he had received, relative to the designs of the enemy?

A. He did not.

Q. Or did he ever inform you of any plan of defence he had determined upon, in consequence of an attack?

A. He never did.

Q. Did Colonel Cockburne at any time, during his command, assemble the garrison at their alarm posts, or did he take any particular steps to stimulate the troops if possible, to a greater degree of alertness and attention when on and off duty?

A. Not to my knowledge.

Q. What number of ball cartridges was each soldier

soldier in possession of, on the morning of the 26th of November, 1781, the day of the capture?

A. I cannot tell as to the particular number, but I believe each man might have between 5 and 6 rounds, they had been delivered out some time before, and there might have been a deficiency, I cannot say exactly as to the number, but there was an order for each man to receive 5 rounds of ball cartridges.

Q. Had the men then that number of between 5 and 6 rounds?

A. I cannot say, I cannot be exact.

Accuser. I beg a letter may be read, dated St. Eustatius, from Colonel Cockburne to General Fishberg, I believe it lays on the table.

Judge Advocate. Q. Do you mean to ask any questions on that letter?

A. I will send for Major Fisher who is secretary to the General.

Judge Advocate. There are several letters that are put into my hands from the secretary of state's office, but if they are to be adduced in evidence, they must be proved.

Cross examined by Colonel COCKBURNE.

Q. Did I remain in the command of the island from the decease of Brigadier-general Ogilvie, till the day that the French surprized me?

I cannot possibly say, you might have gone out of the island without my knowing any thing of the matter, I do not know you remained altogether in the island, I cannot say whether you did or not, I cannot say whether you remained there, because you had an opportunity of going, I suppose, where you thought proper, without acquainting me of your intentions.

Colonel Cockburne. I beg an explicit answer to the question.

Judge Advocate. Q. But supposing him to be all the time upon the island, he did attend the command, did not he, Sir?

A. Yes, Sir, I should imagine if he left the island that I should have known it.

Judge Advocate. You do not know that he did leave the island at any time?

A. No, Sir, I cannot say I do.

Court. Had you ever any reason to suppose that Colonel Cockburne had left the island so much, as that you should take the command upon yourself?

A. No, Sir.

Colonel Cockburne. With respect to the post at Tumbledown Dick, whether what you have alledged is of your own knowledge, or by hearsay and report, because you was asked whether you had ever heard such a thing?

A. I never was at Tumbledown Dick, but from

the situation, it was a place that commanded a large bay, and there was a number of pieces of cannon upon it, which made General Ogilvie believe that it always was a place of the utmost importance; but Captain Garstin will inform you of the whole particulars.

— CALVERT *sworn.*

(Proved some copies of letters, &c.)

Accuser. I mean to prove that on the 12th of November, Colonel Cockburne had received intelligence of the intention of the enemy, and that will appear from the reading of this letter; in consequence of that information I want to ask this witness, whether he took any steps whatever to put the garrison upon their guard, or whether the purport of that letter is true; for he says, small detachments were dispersed through the island.

Judge Advocate. You must not say what the letter contains.

Court. Q. The question is, how will you authenticate the letter?

A. I mean to call in Mr. Fisher.

Judge Advocate. You should ask this witness whether any letter of that date was communicated to him.

Accuser. No, Sir, I mean to prove to the court, that by Colonel Cockburne's own confession he had received intelligence.

Judge Advocate. You can ask as well of Colonel Headhouse without the letter as with it.

Q. Did Colonel Cockburne ever disperse small detachments to prevent a surprize, I mean during the time he commanded, after the 12th of November?

A. Not to my recollection.

Q. Do you think the conduct of Colonel Cockburne during his residence in the island was such, as to merit the esteem and good wishes of the inhabitants.

Court. Q. Do you mean the inhabitants of the garrison?

A. Yes, the inhabitants of the garrison.

President. Q. Does that question affect Colonel Cockburne's military character or not, because a man may forfeit the esteem of the inhabitants by doing his duty properly as a superior officer; I have known many instances of that kind.

Accuser. Q. I will put the question thus, whether the conduct of Colonel Cockburne during his residence in the island, merited the esteem and good wishes of the inhabitants, so that they would assist him in case of an attack, or give him any information in case of an enemy approaching.

Court. Q. Does it respect the inhabitants and garrison?

A. Yes, both of them.

Judge

Judge Advocate. That is a question for the court to judge upon.

Accuser. I wish the court to understand that I mean by this, that if Colonel Cockburne's conduct had been approved by the inhabitants, they would have assisted him, and would have helped him in the look-out.

Court. That is no part of his military character, the court must debate upon this, has Colonel Cockburne any thing to say upon it before the court withdraws.

Colonel Cockburne. Receive it, or reject it, as you please, I have no objection.

(The court cleared and soon after resumed.)

Judge Advocate. The court are not disposed to have this question put.

Colonel Cockburne. Q. In what situation was you, Sir, when the enemy made you prisoner?

Accuser. If you will read the first charge, this is a thing that took place after, or at the time of the island's being taken.

(Colonel HEADHOUSE ordered to withdraw for a minute.)

Judge Advocate to Colonel Cockburne. Q. What does your question tend to?

Colonel Cockburne. The tendency is to shew, that I was actually going my rounds when he was taken in his chamber.

Court. That may go to criminate him, but it cannot go to justify you, he is brought here as a witness, to answer such questions as are asked of him if they do not criminate himself; for there may be impropriety of conduct, and yet there may be strict veracity.

(Colonel HEADHOUSE called in again.)

Judge Advocate to Colonel Headhouse. The court does not mean to propose this question to you.

Colonel Cockburne. Q. During the time I had the honour of commanding you, did you ever know me to be negligent, or inattentive, or relaxed, in any degree of discipline?

A. I believe Colonel Cockburne was always looked upon as a good officer, I did hear that character of him, I have known him a great many years.

Court. Q. Did you ever know him to be negligent, inattentive, or relaxed in any degree of discipline.

A. I cannot say that he was.

Colonel Cockburne. Q. What was my usual time of rising in the morning to the garrison's knowledge?

A. I have seen Colonel Cockburne riding out very early frequently.

Court. Q. What do you mean by Colonel Cockburne being an agent?

A. I believe Colonel Cockburne had charge of a considerable sum belonging either to the capture, or to government, I cannot say which; and he was looked upon as an agent upon that account.

Colonel Cockburne. I will explain that.

Court. Q. You say you believe Major Ogilvie looked upon that post at Tumbledown Dick as an important one, what is your reason for that?

A. He certainly did look upon it as a place of great importance from having so many guns mounted there, and as it commanded a large bay.

Q. Had you had any conversation with General Ogilvie, or only believed it from those circumstances?

A. I know General Ogilvie looked upon it as a place of great importance, and he paid very great attention to it.

Court. Q. Did he ever tell you so?

A. I will not say that for certain, but to the best of my recollection he has often mentioned it as a place of consequence, I have frequently had conversation with him, and he looked upon it as a place of importance.

Court. Q. You say that after the decease of General Ogilvie, Colonel Cockburne reduced the guard; how soon after the decease?

A. The day after.

Court. Q. When did General Ogilvie die?

A. The 31st of May, and the next day this guard was reduced, or there was orders for it to be reduced, I have a copy of the order in my pocket?

Q. You said, that the men the day of the capture had five or six rounds; did Colonel Cockburne sign any order?

A. I believe it was an order of General Vaughan, I am not certain; he ordered Captain Gartin to deliver out 60 rounds for the men, and the remainder to be delivered into the regimental stores; 60 rounds of ball and flints, and they were supplied with 6 ball cartridges to each man.

Court. Q. Do you know the distance of Tumbledown Dick from the garrison?

I should imagine it may be about two miles.

Q. Was there a field officer in the day, or any other visiting officer for the daily inspection of the guard and posts?

A. There was not a field officer I believe there at the time that the island was captured, but some time

time before there was a field officer, and there were only two field officers to do that duty.

Court. Q. How long was it that the field officers visited?

A. I cannot say directly.

Q. Did it subsist during General Ogilvie's command?

A. Yes.

Q. Was it discontinued afterwards?

A. I believe it was, but the officers of the picquet used to go that round and visit the guards.

Court. Q. Whether the men upon duty had no more than six rounds each man?

A. I believe that was the number of cartridges that they had.

Court. Q. What was the reason of that field officer's duty being taken off?

A. I believe it was on account of the severe duty; there was at one time only two field officers to do that duty, and it was severe duty indeed; and I believe on that account that duty was taken off.

Q. At the time when the guard at Tumbledown Dick was reduced, what number of nights had they then?

A. They could not have above a night, and some of them not so much for the men.

Accuser. Q. You say the duty of the garrison was so exceedingly hard; do you think that if General Ogilvie had lived, he would, notwithstanding that severe duty, have ever reduced that important post?

Judge Advocate. He cannot go any further, all the rest must be imagination.

Colonel STOPFORTH sworn.

Accuser. Q. Was you present at the island of St. Eulianus at the decease of Brigadier-general Ogilvie?

A. I was.

Q. Did the field officers of the garrison wait on Lieutenant-colonel Cockburne, to know if he intended to take upon him the command?

A. They did.

Q. I beg Colonel Stopforth will relate what passed between the field-officers and Lieutenant-colonel Cockburne?

A. As near as I can recollect, Colonel Headhouse came to Colonel Cockburne and told him, he came from the rest of the field-officers, to know if he proposed to take the command of the garrison; Colonel Cockburne seemed very much surprized I thought at the question, and said, that he undoubtedly did, as his Majesty had thought proper to give him the commission he then bore, he would of course not waive the command, nor give up the seniority; and quoted an instance which really I do not

recollect now, where such a thing had happened formerly, and such a question had been put before.

Court. Q. Was that person upon the staff?

A. Yes, but I do not recollect what office he had.

Accuser. Q. Did nothing more pass upon this occasion?

A. I believe there might, I do not recollect it.

Q. Whether Colonel Cockburne succeeded to the command at the decease of Brigadier-general Ogilvie?

A. Immediately.

Q. Name the strength of the regiment you had the honour to command under Colonel Cockburne, at the time of the capture.

A. Two hundred and sixty-one, 61 of them were sick in the hospital, 200 rank and file fit for duty.

Q. Did you ever hear there was a post on the north-west part of the island?

A. I have.

Q. What was it called?

A. Jenkins's Bay.

Q. Commonly known by no other name?

A. It is known by the name of Tumbledown Dick.

Q. Did you ever see the post?

A. I did.

Accuser. Q. In what situation was that post of Tumbledown Dick, commanded by General Ogilvie?

A. I cannot say.

Q. What force did General Ogilvie detach for the defence of that post?

A. A subaltern, a serjeant, a corporal, a drummer, and 19 privates.

Q. Did Colonel Cockburne reduce the detachment of Tumbledown Dick, soon after he succeeded to the command?

A. He did.

Q. How soon after?

A. I believe either that day, or the day after he took the command.

Q. What alteration did he make in it?

A. He left only a corporal and three men.

Q. Was there an out-lying picquet established by Brigadier-general Ogilvie, and what did it consist of?

A. One captain, 1 lieutenant, 1 ensign, 2 serjeants, and I believe 50 rank and file.

Q. Did Colonel Cockburne during his command convert that picquet into an inline?

A. He did.

Judge Advocate. Q. When was it thus converted?

A. Very soon after he had the command.

Q. Do you recollect any orders, when the picquet became an inline picquet?

A. None that I can recollect.

Accuser.

Accuser. Q. Did Colonel Cockburne communicate to you as third in command, any intelligence he had received, relative to the designs of the enemy?

A. He did not.

Q. Did Colonel Cockburne ever inform you of any plan of defence he had determined upon, in case of an attack?

A. No, Sir.

Q. Did Colonel Cockburne during the time he had the honour to command, assemble the garrison at their alarm posts, or take any particular steps to stimulate the troops if possible, to a greater degree of alertness and attention when on and off duty?

A. He did not assemble them on their alarm posts; he gave out orders to the different regiments, where they were in case of alarm to assemble.

Q. At what time was that order given out?

A. I really cannot say, but our major had it, I do not know the day of the month, but it was soon after he came to the command.

Accuser. The order is in the book, it is during the time of General Ogilvie's command.

Q. What number of ball cartridges were in possession of the troops the morning of the capture?

A. Six rounds per man.

Q. Did Colonel Cockburne to your knowledge, ever disperse any small detachments to prevent a surprize?

A. I looked upon every patrol from the picquet to be in part for that, I looked upon it in that light.

Q. Had the patrols from the picquet any order ever to go near to the north, and north-east, and east part of the island or to go out of the town, or I will confine the question, did the patrol for the picquet ever go out of the town?

A. The town is such a straggling one, that they must go beyond the town if they did their duty, the companies were at a great distance asunder, they must go a vast distance; some of the companies were quartered a quarter of a mile distant, they were dispersed, they were not in barracks.

Q. What were the orders that the picquet received?

A. To keep every thing quiet, to take up all soldiers and inhabitants that were disorderly.

Q. Were the patrols of that picquet ever supposed to have been upon their guard to prevent a surprize?

A. I thought so.

Cross examined by Colonel COCKBURN.

Q. Whether during the time I had the honour of commanding, you ever knew me to be negligent or inattentive to the service, or relaxed in discipline?

A. I did not.

Q. What was my usual time of rising in the morning?

A. Generally at day-light.

Court. Q. You saw this particular post?

A. I thought it of very little consequence, because the surf was in general so very high, that no boat in general would attempt to land, I never was there but once; I believe, I was told that boats had been dashed to pieces that attempted to land there.

Q. Then you did not think it of the consequence it had been generally supposed?

A. No, I did not not on that account.

Q. When your alarm posts were established, do you recollect any time when the men were acquainted, they were to assemble there?

A. The different fields were their alarm posts.

Q. So that from thence you conclude they were sufficiently acquainted with their alarm posts?

A. Certainly Sir, one was the 15th, they were to exercise every day.

Q. The patrol there you say used to go to the neighbourhood of the town? Did they ever go to visit the out-posts?

A. They never were so far, because the nature of picquet is to take care of every place of danger more particularly than another.

Q. Was there any general alarm posts for the whole garrison, to assemble in case of any great alarm?

A. There was not, the patrols went at both times, as inline and outline picquets, they went to see the quarters; the out-posts were at a great distance some of them.

Q. Do you know the duty, that originally called Colonel Cockburne to Eulatus, he does not seem to be there as colonel of the 35th regiment.

A. Quarter-master-general's department.

Q. You are very well acquainted with the island?

A. Pretty well.

Q. There are two forts or batteries erected according to this plan, whether they could come to the island without coming near to those batteries.

A. In some parts they could.

Court. Q. Was there any other accessible post more than this?

A. I have heard that there were times that boats could slip in, and with difficulty at any time, these places were far from any batteries, but it is all h carsay intirely.

Court. Q. How was the water that day, was the surf very high or was it naturally so?

A. The surf was generally high, I do not remember that there was any gale of wind, it swelled with little wind.

Q. Do you know what reasons were assigned for the outline picquet being changed to the inline

one, or for reducing the fort at Tumbledown Dick?

A. I do not, I imagined because the men were very sickly, and it was at that place thought the boats could not come in.

Q. Was there any other place?

A. There were a great many guards.

Q. Were there forts of less importance, that might with more propriety have been reduced?

A. No, I do not think there were.

Q. When Colonel Cockburne arrived at the island of St. Eustatius, did he continue to exercise his office as quarter-master-general or discontinue it?

A. He continued to exercise the office of quarter-master-general.

Q. All the time he had the command?

A. Yes, I did not hear any body appointed to the service, therefore I imagined he did.

Court. Q. Supposing boats could land, is it more accessible at Tumbledown Dick?

A. The beach is flatter there.

Q. Is the beach of any extent?

A. It is a narrow beach, it is a confined distance.

Q. In your opinion was it a quarter of a mile or half a mile to the opening of that beach from the sea?

A. A mile or better, that was the narrowest part.

Q. Were there any batteries to defend this place?

A. One.

Q. In what situation was that battery?

A. It was just at the entrance of the bay, between two steep holes, you do not see them till you just come round near to the water.

Q. Is it equally dangerous for boats to land at any other part of the island as at Tumbledown Dick?

A. I have heard it was, I cannot speak of my own knowledge.

Accuser. Q. What artillery were planted on Tumbledown Dick?

A. I do not know.

Q. Do you recollect from the observation you made, that the beach was a fine sand and covered with sea-shells, a vast number of sea-shells on it?

A. I do not recollect it being any other way particular with shells than any other strand, I was only just on horseback to the battery, I did not go down to the beach.

Q. What distance was you from the sea-shore?

A. I was at the battery which was about ten yards off the sea, I took very little notice.

Q. What was the usual time of the garrison's rising, and was Colonel Cockburne singularly remarkable for rising early?

A. Generally at gun-firing, that was day-light.

Court. Q. What sort of road is it between the town and this Tumbledown Dick?

A. Very bad, a very bad country, you are in a hollow, there are hills on each side.

Q. Was Colonel Cockburne singularly remarkable for rising early?

A. Except the officers were particularly ordered on a field day, Colonel Cockburne was generally the first officer, I believe, in the garrison.

Q. Did Colonel Cockburne rise by gun-firing?

A. Very often.

Court. Q. Was there any kind of guards posted between the fort and Tumbledown Dick upon the right?

A. No, Sir.

Q. What distance was it between the town and Tumbledown Dick?

A. About eight miles, or between that and nine, I judge of it, I only rode it once.

Q. How many men could march abreast in the narrow part of that road?

A. I should think three or four in some part, I do not mean the whole.

Q. Can you guess the whole length this hollow way was from the bay you describe?

A. The road goes to the battery, and the battery is just within twenty yards of the water, I should think the whole way was five hundred yards.

Q. Was it absolutely necessary to pass that hollow way to the fort?

A. There is but one way, I never went but that hollow way.

Q. Were there any means of checking the progress of the enemy, during their passing this narrow way?

A. No, there was not, the ground would not admit of it, but I am a very imperfect judge.

Accuser. Q. Could not the enemy have marched over a field or fields as they approached towards the garrison?

A. They could.

Q. Was not those fields a fine open country?

A. They were.

Major HENDERSON *sworn.*

Q. Was you present at St. Eustatius at the time of General Ogilvie's death?

A. I was.

Q. Was Tumbledown Dick generally understood to be a post of importance?

A. I always understood it so.

Q. What alterations did Colonel Cockburne make in the detachment at Tumbledown Dick; when he succeeded to the command?

A. During

A. During the latter part of the life-time of General Ogilvie, it consisted of 1 subaltern, 2 serjeants, 2 corporals, 1 drummer, and 20 privates, and I believe there was a detachment of artillery, but I am not sure; immediately after General Ogilvie died, Colonel Cockburne ordered it to be reduced to a corporal and 2 private soldiers, I believe these were the words of the order.

Accuser. Q. Was there not an outlying picquet established during the latter part of General Ogilvie's command?

A. There was.

Q. Was not there a house appropriated during the life-time of General Ogilvie, for that outlying picquet, so as to be in readiness at a moment's warning?

A. There was, they mounted at gun-firing in the afternoon, and they were to march before the captain of the picquet from the Grand-parade to this house, that was appropriated for their reception, where sentries were planted, and the men had orders upon any alarm to be in readiness.

Accuser. Q. Did Colonel Cockburne during his command, convert that picquet into an inline picquet?

A. By Colonel Cockburne's order, after forming in the afternoon at gun-firing, and examining the mens arms and ammunition, they were then dismissed by the captain of the regiment with orders to retire, to advance, to lay in their accoutrements, that they might always be ready to turn out at a moment's warning, in case of any alarm.

Q. Did that make the duty any easier?

A. I do not know that it did, because in general the soldiers bedding was very indifferent. They had only a board to lay on.

Q. Did you ever hear that a report was ever made to Colonel Cockburne, of the practicability of an enemy's landing at the bay?

A. I had some conversation with Captain Garstin, I think after the surrender, he informed me, that with a great deal of difficulty, and by the assistance of a guard, he had found out this bay, it was a sand beach with a very high ground commanding it, and could be effected only with great difficulty, and he had made this report to Colonel Cockburne, about ten days before the island was taken, and he said he mentioned it to a Mr. Dawes, (if I am not mistaken) a gentleman of that island, who is not here.

Accuser. Q. Was there a guard or a single soldier posted there to alarm the garrison in case of any surprize?

A. I believe not.

Q. Were the barracks in which the soldiers were quartered dispersed or connected?

A. Dispersed.

Q. In case of any thing, how were the inlaying picquet to be assembled?

A. If an alarm happened, the inlaying picquet would undoubtedly partake of the same advantage as the other part of the garrison in general.

Q. Was not the picquet therefore, of course, rendered of little or no use in case of a sudden alarm at night?

A. I don't think they could be assembled so expeditiously.—They would have come in, in a straggling manner, as they were dispersed.

Q. I beg the question to be answered: Whether it was of little or no use; whether it was of great importance or no consequence?

A. I say, Sir, they could not have come so expeditiously when they were assembled; whenever they did assemble they must be useful; they would come in a straggling manner; they would not come in a complete body.

Q. Would not the garrison as soon have been assembled or collected as the picquet being?

A. Just the difference of a soldier being dressed or undressed.—The men in the picquet had nothing to do but seize their arms and repair to their alarm posts; The soldiers that were not in the picquet must either have time to dress themselves, or come with their cloaths in their hands on the parade.

Second Day's Proceedings.

MAJOR HENDERSON called again.

Accuser. Q. Was it not customary for all guards to be reported to the captain of the picquet?

A. Yes, except one of the officer's guard at the Still-house on the bay, which was reported to Colonel Cockburne; they are distinguished by the Upper and the Lower Town. It is much about the centre, almost immediately under the fort.

Q. Explain to the court in what character Colonel Cockburne came to the island, and in what situation he was considered?

A. Colonel Cockburne came down quarter-master general, under the command of General Vaughan.

Court. Q. Was that command confined to that island alone?

A. No, I apprehend not; it was a general authority. I saw Colonel Cockburne at Barbadoes, he was in that capacity there.

Q. Quarter-master general to the army in the West Indies?

A. Yes.

Accuser. Q. Did not you, with the rest of the officers, sign a paper empowering Colonel Cockburne to be agent for the security and distribution of the prize money?

A. Yes, he was one of the agents appointed by the 13th regiment.

Q. Was he not at the time he took the command acting as quarter-master general and agent?

A. He acted as quarter-master general, he was also agent; Colonel Cockburne's regiment was at St. Eustatia, but I understood that Colonel Cockburne assumed the command, or took the command of that garrison, in consequence of being senior officer.

Q. Did you ever intimate in the course of conversation with Colonel Cockburne, that you thought the island was not sufficiently guarded along the east and the north-east parts?

A. It was commonly in the afternoon when I delivered in my report to Colonel Cockburne, when I was upon duty; and I had frequent conversations with him about the garrison; and one afternoon the conversation turned on the strength of the garrison, and I told Colonel Cockburne that I thought that the leeward side of the garrison, to the westward, was in a very respectable state of defence, which I really did. It was very strong, but I differed with Colonel Cockburne, and I hinted that I was not of the same opinion that he was of, relative to the strength of the island to the eastward, the near quarter, the windward part of the island. I did not mention it as an opinion, only as an insinuation of my own.

Court. Q. Did that respectable state of defence proceed from the nature of the ground, or the posts that were put there.

A. The ground was very strong of itself, and there were several considerable batteries; these batteries manned well, very well, very strong, sufficient to repel any force that was brought against the garrison, I am sure.

Q. Were those batteries on the west side of the island erected during the time Colonel Cockburne commanded?

A. The principal part of the batteries on the west side of the island, were erected during the time that General Vaughan continued in garrison; if I am not mistaken there were some Dutch batteries, I believe prepared by Colonel Cockburne, under the inspection of Captain Garstin, of the artillery, and Mr. Lewis; I do not know what number of batteries there were, I am sure there was one, if not more.

Q. What time were they erected?

A. I do not know particularly the time, they were going on repairing batteries.

Q. In Colonel Cockburne's time?

A. Yes Sir, they were repairing; I do not know the time particularly.

Accuser. Q. What distance do you suppose it was from Tumbledown Dick to Concoram round the coast?

Court. Q. Where is that?

Accuser. It is upon the north-east part of the island, near Cunningham.

A. My answer must be very imperfect, for I never was round the country, we must have gone round, there was no path way that ever I saw.—It might be three miles, or two miles and an half.

Court. Q. Round the point?

A. I suppose so; I suppose Mr. Rogerfon means round the point. I do not know the distance coast-ways.

Q. Was not that part of the coast intersected with bays and pits, and surrounded on every side with high and irregular land?

A. One bay there was where the Dutch landed; but I know nothing of the coast, as I said before.

Q. Was it not, therefore, from its situation most likely to facilitate the operations of the enemy, in attempting a surprize?

A. The island had been surprized more than once, and I always understood that it was carried before, near, or at Tumbledown Dick, or that part of the island.

Q. What was the post that was stationed from Tumbledown Dick quite round to Concoram Bay, for the protection of the island, including Tumbledown Dick, to the borders of Concoram, to the west side of it?

A. I mentioned yesterday that there was a corporal and three privates at Tumbledown Dick, and I know of no other force; there might be an artillery man, but I am not sure of that.

Accuser. Q. What force was stationed from Concoram Bay to the very extremitie of that part of the east side of the island; the windward part of the island I mean, from that bay called Concoram. I do not mean to include the leeward side?

A. There was a battery erected by General Vaughan, three guns, eighteen pounders. I believe there was only one artillery man; I knew of no more.

Q. I fancy that is not an answer to my question; I ask what force was stationed?

A. I say there was no other force posted to the windward of the fort but one artillery man; there was no other post established there.

Q. What

Q. What was the name of the place that battery was erected at?

A. Concom: I never understood it by any other name, or English Quarter.

Q. Did Colonel Cockburne construct batteries in every bay and creek that were accessible?

A. Colonel Cockburne ordered a battery to be constructed to the southward of this battery that General Vaughan ordered, and I believe it was almost finished when the island was taken.

Q. What force was stationed at that battery.

A. I told you before not a man; there was not a man on that side of the island, but I understood that there was to have been a captain, two subalterns, and fifty rank and file established there, and sergeants in proportion.

Court. Q. What is the name of that battery?

A. I do not know that it was ever named; that battery was constructed with an intention to cover two bays, where a possibility might be of an enemy's attempting landing to the southward; you will understand me, Sir, that this is what I understood, a small bay that I know myself, and I have heard that there was another bay.

Accuser. Q. Did Colonel Cockburne acquaint you that he intended posting that guard in that part of the island?

A. Colonel Cockburne never gave me the smallest intimation relative to any circumstances of that battery, or any other part of the garrison; but I had this information from Captain Garstin of the artillery.

Q. Did Colonel Cockburne erect any more batteries than that one you have mentioned?

A. No, Sir.

Q. Did you know that Colonel Cockburne constructed a battery or erected a post at Jenkins's Bay, or upon the high grounds that commanded it?

A. No, Sir.

Q. Where, and at what time was it that the enemy landed on the island of St. Eulatus?

A. I understood from the officers that they began to disembark their troops about twelve at night at Jenkins's Bay.

Q. In case the enemy had miscarried at Jenkins's Bay, might they not, in your opinion, have made their disembarkation good at Tumbledown Dick, and very easily have surprized so small a guard?

A. That depends intirely on the alertness of the troops, they might have forced that guard, I should apprehend, with the body of the troops that they had; but with regard to surprizing the guard I cannot say, it depends entirely on the alertness of the roops.

Judge Advocate. The Court would wish to receive from you an answer to the former part of the question?

A. The guard was hardly sufficient to repel the force that was brought against it, I never was there, I went in upon the high grounds over it.

Accuser. Q. From the nature of the coast, might not they have landed, might not a boat with half a dozen men in it have very easily and unsuspectedly landed in the bay, and surprized the small guard and taken them prisoners?

Court. That depends on the alertness of the troops as to their being surprized or not.

Accuser. I leave that question out.

Q. Were there any guards or sentries on the side the enemy landed at, and between that part of the coast, and the skirts of the town, I mean from the place where the enemy landed, Jenkins's Bay, to the town?

A. No, there were no guards there.

Q. Over the heights and along the plain?

A. There were no exterior guards, there were no guards in the skirts of the town; no out-guards.

Q. Were there any patrolling parties besides these of the picquet?

A. I do not recollect any except the rounds of the picquet.

Q. Were there any patrolling parties but the rounds of the picquet?

A. I do not recollect any, I mean the picquet went round and the patrol did not go round, I do not mean that the picquet and patrol rounds are the same, indeed I do not.

Q. What were the orders this picquet patrolling had?

A. Sir, if I could take the liberty of mentioning myself, when I mounted picquet, I went grand rounds many times between ten and twelve, I turned out all guards, who received me as grand round, in the courie of my patrol, the subaltern officers went their rounds, so that it might be contrived by the last to bring in day-light.

Q. That is not an answer to my question; my question is as to orders you received from the commanding officer?

A. To take up all straggling soldiers, and suppress all riots and disturbances.

Court. Q. How far did it extend?

A. Not out of the town to all guards that marched off the parade, it was impossible to visit Tumbledown Dick.

Q. Do you think that these picquet patrolling parties were ever intended to guard against a surprize?

A. They were intended I suppose to guard against every thing within the extent of their run.

Q. Were these picquet patrolling parties ever ordered to patrol out of town, or visit any of the guard that

that lay detached out of the garrison out of the town.

A. There was no guard detached at that side before to the eastward nor the northward, there were some guards detached to the southward, as far as a place they call Whitecliffe, but I never visited out there, I took in the range of all the guard upon the lower town, that is upon the beach, and in the upper town, except the guard in Fort George, where I could get no admittance as they generally had the draw bridge drawn up, the parade was beyond Colonel Cockburn's house, that parade, that we paraded on was the Alarm-post.

Q. Were there one or more guards detached to the southward.

A. There were more, and if you will give me leave, I will tell you my reason for not visiting them.

Q. Was it his order to visit them.

A. I had no particular orders on that subject, my reason for not visiting them that were out of town was, that they commanded batteries, and those batteries were upon cliffs, that it was impossible to surprize them, I visited all guards that were posted upon cliffs except them; your questions go to criminate me.

Court. Nothing more is meant from you than to know the orders you received, but perhaps he might come at it in a shorter way.

A. I believe it was the invariable custom of every captain that mounted to take in the range of the lower town, and upper town as I did.

Court. Q. The question is what were the orders you received from the officers, not how you executed them?

A. I never had any particular orders from Colonel Cockburne on the subject, only the discretionary power of captains.

Accuser. Q. What do you know relative to the information Colonel Cockburne received respecting the intentions of the enemy?

A. I heard some gentlemen express a surprize after the island was taken, that some steps had not been taken to prevent any misfortune of that kind, particularly as they said, (it is all information, all hearsay, I have no knowledge on the subject), that Colonel Cockburne had received a letter.

Judge Advocate. I doubt whether we should receive this, what was said afterwards cannot be received as evidence?

A. Of my own knowledge I can say nothing, only by information.

Accuser. Q. Did any general orders appear from Colonel Cockburne intimating to the officers and the troops, any intelligence he had received, or any apprehension he was under of the islands being at-

tacked by the French, to stimulate them if possible to a greater degree of alertness and attention, when on and off duty.

A. I know of no such order is?

Court. Your question has not yet been answered whether or no a person mentioned it to Colonel Cockburne, but first was that previous to the attack?

A. No, the subsequent night.

Accuser. Q. Were there any orders from the 12th of November, to the 25th, on the subject of alarming the garrison, or exciting their particular attention?

A. I know of no such orders, I cannot charge my memory with any such orders.

Q. Do you think such an order would have put the officers and soldiers particularly on their guard?

A. Sir, it appears to me that such an order under the sanction of government, cannot be conveyed in a public or private manner, but it must put a garrison on their guard.

Q. Would the same order have put the inhabitants, and the Negroes well affected to the British Government on their guard, so as to exert themselves in consequence of it, by keeping a good look out?

A. The King had a few subjects there I believe, but they were a very few; it might stimulate them indeed; but the inhabitants in general were brought up under a Dutch Government.

Q. Did it ever come to your knowledge that Colonel Cockburne was present, and active, and vigilant, in reconnoitring and examining the several bays and creeks, in the island of St. Eustatius, to enable him to have a competent knowledge of the want that such places, if any, might be in of assistance, and that they might be put in a proper state of defence?

A. It did not come to my knowledge that he was.

Q. Whether there was any detached post, or picquets in the night, more than there was in the day, I mean sentries?

A. I do not know.

Q. Were there any cannon?

A. There was a 12 pound cannonade; that post I understood always to be a dry post, it was not a night post; in regard to the plantation where they lay, they returned upon the firing in the morning of a signal.

Court. Q. Was there any signal established?

A. There was at the alarm post.

Accuser. Q. Who established that signal?

A. I cannot say whether it was General Vaughan, or Colonel Cockburne.

Q. Was it established by Colonel Cockburne or not?

Cross examined by Colonel COCKBURN.

Q. I think Major Henderson says, that laying in the barracks was no ease to the men; was it the custom of your regiment to allow a tour of guard for an ordinary picquet?

A. I cannot charge my memory with it.

Colonel Cockburne. The 15th regiment did not.

Judge Advocate. These observations will be better in your defence.

Colonel Cockburne. You mentioned to day, one artillery man having been posted at a battery, at Concoram.

A. That one man, I should imagine, was posted not immediately, probably by you, but by your order.

Q. Was that man posted in my command, or antecedent to it?

A. I believe it was before your command; I think he was posted there before your command, but that there was no more there, I am perfectly clear in that point.

Q. Where was your company quartered, at that time that the enemy took possession of the island?

A. It was quartered there, in the East Country I had 2 barracks, 2 houses allowed for my company, upon a height immediately above Amsterdam Fort.

Q. Who were the subalterns of the company?

Accuser. Q. May not that tend to criminate his subalterns.

Court. We shall take care of that.

A. Mr. Rogerfon was one of the subalterns, and Mr. Webb was the other.

Q. Did one or both of these subalterns lay in the quarters of the company?

(The Witnesses ordered to withdraw.)

President to Colonel Cockburne. I do not apprehend that is of any consequence to you.

Colonel Cockburne. I think it is of great consequence, my life is at stake, and my honour, which is dearer than my life, but I leave it to your impartial honour.

Judge Advocate. Any thing that you think material, or necessary for your defence, the court will wish to hear it.

Colonel Cockburne. I only wish to justify myself, I am accused of what I never was before accused, or thought guilty of, the neglect of every thing; I only mean to ask these questions, to prove that this company was posted by the orders of General Vaughan to me, as quarter-master general, to find out a post for a company, in order to be ready to repel any invasion in that quarter; and I observe, that had that company been there, and done their duty, they would have taken a column of the French; it would at least have given sufficient alarm to the garrison, and

to me, probably an opportunity of being in another situation to what I am this day.

Accuser. Q. May not the observations that Colonel Cockburne just now made, tend to criminate the officer or his subaltern?

Judge Advocate. Criminate who he will, if it is done consistent with truth, and acquits himself, it must come out.

(The Witnesses called in again.)

Colonel Cockburne. Q. Did you, and both of your subalterns lay in the quarters assigned them in the Company?

A. Upon my word, that is a very difficult question for me to answer, but I do not know whether they inhabited the proper barracks, that were allotted to them; or whether they might accommodate themselves more conveniently, I cannot say, indeed I never saw Colonel Cockburne's distribution of quarters, I remember that Mr. Rogerfon at one particular time, was quartered in a Mr. Gordon's house, which lay some distance from the town, and Mr. Webster a lieutenant of the company, was at another island, St. Martin's.

Court. I think you say, you never saw Colonel Cockburne's distribution of quarters;

A. No.

Q. How far were these quarters where Mr. Rogerfon was in?

A. I cannot tell the distance.

Q. By whose orders did Mr. Rogerfon quit his company's quarters?

Judge Advocate. Q. Did he quit the quarters by order or by leave?

A. I am perfectly unable to give an answer to that question, it was a house that was in the country, that Mr. Gordon retired to, and Mr. Rogerfon was quartered at latterly; he was quartered there on the 26th of November, but by whose authority he went there I do not know, he was quartered there, he was in that house, at that time.

Colonel Cockburne. Q. What was my usual hour of rising in a morning?

A. By what I always understood Colonel Cockburne arose by day light, he was an early morning riser.

Accuser. Q. Did you ever see an order issued from Colonel Cockburne, for an officer to be quartered in any place?

A. No, I do not recollect that I ever did.

Q. Do you know whether my being quartered in the house mentioned, was by invitation of the worthy man that kept it, or by any order whatever?

A. I cannot say, I do not know whether Mr. Rogerfon went to Mr. Gordon's house, before Mr. Gordon left the island or after.

Colonel Cockburne to Accuser. Q. How long had he been gone from the island?

A. Five or six months previous to the capture.

Q. Before Colonel Cockburne came?

A. I think it was after.

Accuser. Q. If I was not quartered in a family that was obliged to support me?

A. Mr. Rogerfon lived with a gentleman and his family on the Bay, I imagined he lived without any expence.

Q. Were not the officers of the garrison in the same situation respecting their quarters?

A. Do you mean with respect to living with the inhabitants?

Q. Yes.

A. It is generally the way with the officers, where they were quartered to live with the family.

Q. Did not the owners of the houses, where the officers were quartered, think it a very great oppression, that they should be obliged to keep the officers without any expence whatever?

A. Some might, others did not, it was in a great degree owing to the circumstances people were in I suppose, but it must undoubtedly put the people to great inconvenience.

Q. Did not the officers feel for the situation of the people, and were induced to get houses for themselves, that they might be independent of them?

A. We generally separated from the inhabitants, almost entirely as soon as we could form messes, which was not possible in the beginning.

Q. Was it generally understood to be the wish of Colonel Cockburne, that officers in general should remove into quarters, and not live at the expence of the inhabitants of the island?

A. I never heard Colonel Cockburne mention it as his wish.

Present. Q. Did you ever hear of any order from Colonel Cockburne?

A. No, Sir, none, there was never any order issued, we was to make the case as agreeable to ourselves as we could, and to ease the inhabitants; there was no order, we were to associate together as much as we could.

Accuser. Q. Were there any officers quartered in the same house, that I removed to?

A. There was Lieutenant Scott, and Ensign Smith.

Q. Part of the same regiment?

A. Yes.

Q. Whether any officer had quartered there previous to my going there, and had left it?

A. There was, I dined with Mr. Gordon, in company with Captain Blair of the 15th regiment, that had been long quartered there.

Q. Supposing there had been an alarm, where would your subalterns and company have repaired?

A. I should have expected them to have joined me, such as were on duty, on our alarm post.

Court. Q. Was it usual for the officers to suit their own convenience without any authority at all?

A. I do not know that matter, I cannot speak to that matter; on the grand parade, the parade that the guard marched off every morning, that was our alarm post.

Court. Q. Do you know of any orders issued respecting the subalterns of the company, remaining in their original quarters?

A. I never saw any such orders, I had not had that company long, what had been before I do not know, I succeeded to that company some time after General Ogilvie's death.

Judge Advocate. Q. Do you conceive that these officers quartering at this house, at this time, was known to Colonel Cockburne?

A. I cannot say, it was a small place, there were only six companies of our regiment there.

Court. I wish to know what that house was.

A. It was a house inhabited by a Dutchman.

Judge Advocate. Q. You never heard any disapprobation expressed of course on the occasion?

A. I never heard any thing at all on this subject.

Q. Do you apprehend that there was any injury done to the King's servants, by Mr. Rogerfon's being there that day?

A. Not to my knowledge, not the least in the world, I knew of no such thing, all that I expected of Mr. Rogerfon, was to have visited my company.

Judge Advocate. Q. I mean whether he would have come sooner to the relief of the place, if he had not been at that house, whether in fact the place could not have been saved?

A. If that was the point in question, the alarm posts in case of a general alarm, I think, was rather nearer Mr. Gordon than supposing, that Mr. Rogerfon had been under the bay, with the Dutch family where he lived first.

Court. Q. What is the distance that you understood Jenkins's Bay is from the garrison?

A. It might be three miles, or two miles and an half, it was very difficult of access.

Q. Do you know whether Colonel Cockburne first named it Tumbledown Dick, or Jenkins's Bay?

A. I never heard either one or the other.

Accuser. Q. Whether he knows of any order during the time that Colonel Cockburne commanded, either to have them remain in their quarters, or to be removed?

A. I do not, the idea that I had, was in case of any sudden alarm, or indeed any general alarm, that
my

my company was to have joined me or I them, on the alarm posts, I do not know whether something does not strike me, that in General Ogilvie's time, there was something specified about this company, which was his own at that time, but I am not clear in that, and the company did not belong to me.

Court. Q. I desire to know what the distances are between one bay and the other?

A. Do you mean the two bays that I mentioned that the new battery was intended to cover.

Q. Yes?

A. One of them I have seen myself particularly, the other I know only by hearsay from Captain Garstin, I should apprehend that the last battery was to cover two bays that are near to one another, I cannot inform you of the distance, Captain Garstin can.

Q. For what occasion was the drawbridge at Fort George always kept up?

A. It was only kept up I apprehend at nights.

Q. Because I remember you said, you could receive no admittance.

A. I demanded no admittance for the bridge was drawn up.

Q. I took it for granted, that you was rejected.

Judge Advocate. I thought it was drawn up: he did not go there.

A. Yes.

Q. Do you know at any time Colonel Cockburne had signified his displeasure at the officers lying out?

A. Yes.

Q. When officers changed their quarters, was Colonel Cockburne acquainted with it?

A. I cannot tell you, I never saw a general order about officers.

Q. After your company was supposed to be in quarters, was there such an order given out?

A. This order never was given out to my knowledge, I recollect nothing of a general order about that matter, neither after I had got that company, was any order of that sort communicated to me.

Q. Was Concoram Bay out of the reach of the guns of Cunningham Battery?

A. It was totally another part of the island.

Q. Were there not places in several parts of the island where troops might land clear of any battery?

A. I do not recollect any part of the island but what was commanded, except Jenkins's Bay; there had been a fort before, from what I understand by Captain Garstin, of 2 three pounders, at Jenkins's Bay.

Cross examined by Colonel COCKBURN.

Q. Whether the officers being quartered and living in the inhabitants was in my command, or in the time of General Vaughan?

A. At your first coming to the island,

Accuser. Q. Was there not a wall erected by Brigadier Ogilvie, in a narrow lane, between Mr. Roberts's barrack at that time, and his own, in order to stop the progress of the enemy, in case they came that way?

A. There was.

Q. Was not that wall taken down and levelled to the ground during the time that Colonel Cockburne commanded, so as to lay the communication open?

A. Upon my word I do not know, I do not recollect.

Q. Was that wall in existence when the island was taken?

A. Upon my word I do not know, there was a passage going to the upper town, there were three, four, or five communications of that nature, and General Ogilvie had one of them stopped up; but whether it remained, or was destroyed by Colonel Cockburne I cannot say.

(Ordered to withdraw.)

Lieutenant BATHE called in.

Accuser. I beg the orderly book, of the 5th of May, to be read, respecting the alarm-post, issued by General Ogilvie.

The order read, that in case of an alarm by day, a gun was to be fired at Fort St. George, and a red flag at the flag-staff.

The orderly book left with the Court.

Accuser. I beg the order respecting the ammunition may be read, of the 29th of March.

Colonel Cockburne. I never made that order to my knowledge.

Accuser to Witness. Q. Were those orders ever contradicted, or revoked by any subsequent order?

A. Not to my knowledge.

Q. Do you recollect a stone wall erected by General Ogilvie, in a narrow path, leading from the grand parade, to the end of the southern part of the bay, towards Amsterdam Fort: do you recollect the road that went from the parade, the road that faced the water, going down to the very bottom of the bay?

A. I may have seen a wall there, but I do not know who erected it, or by whose order, I never paraded any part of it.

Q. Do you recollect the road, from the grand parade to the south end of the bay; and do you recollect a wall being built in the narrow part of that road, with intention, in case of an attack, to stop the progress of the enemy?

A. I believe I remember the stone place that you allude to; but I do not know by whom it was built, or by whose directions.

Judge

Judge Advocate. Was that done for the declared purpose of stopping the attempts of the enemy?

A. I remember seeing the wall, but I do not know by whose directions, nor the purpose of it.

Accuser. Do you remember a company quartered in a barrack near Amsterdam Fort?

A. I remember some soldiers quartered in the house.

Q. Did that wall exist at the time of the capture?

A. I do not know.

Q. During the time you was upon the island, did an order ever appear, that the officers and the soldiers quartered in a barrack near Amsterdam Fort, should defend that post in case of an alarm?

A. I do not recollect.

Cross examined by Colonel COCKBURNE.

Q. Did I ever countermand the alarm-post fixed by Major general Ogilvie?

A. Not to my knowledge.

Court. Q. Do you know of any particular order that was at any time issued, for the officers and the subalterns belonging to that company, to remain in quarters?

A. I do not.

Q. What was you.

A. I was adjutant.

Q. If any such order had issued, must it not have come to your knowledge?

A. It certainly must.

Colonel Cockburne. Q. Might not an order have been issued by the commanding officer of the 13th regiment without your knowledge, being adjutant of the 15th.

A. Yes.

Court. Q. Was it usual for the officers to change their quarters for convenience, without any application to the commanding officer?

A. I had nothing to do relative to quarters at all, I believe there was no such change without an application, I believe Colonel Cockburne was applied to on these occasions, but for my part I never changed mine.

Lieutenant JAMES SCOTT *sworn.*

Accuser. Q. In what situation were the officers quartered when they arrived first at St. Eustatius, or how were they quartered?

A. Upon private families.

Q. Did those private families consider this an act of oppression?

A. The family did where I was quartered.

Q. Do you recollect the house I was quartered at, in Amsterdam Fort?

A. I do.

Q. Did I go there by order, or by invitation from a private family?

A. I am not sure.

Q. Do you recollect a company, or part of a company, being quartered in a barrack near Amsterdam Fort?

Court. That leads only to your own justification.

Q. Do you recollect an order ever appearing in the orderly book, of the 13th regiment, that the officers who were quartered there, and the soldiers with the barracks should defend that post?

A. I do not.

Q. Do you recollect a stone wall erected by Brigadier Ogilvie, between Mr. Roberts's barracks and my quarters, in a narrow lane?

A. I do not.

Captain EDWARD MADDEN *sworn.*

Q. Was you on the island at the decease of Lieutenant-general Ogilvie?

A. I was.

Q. Who succeeded to the command?

A. Lieutenant-colonel Cockburne.

Q. Was Tumbledown Dick generally understood to be a place of importance?

A. It was so far, it is the chief post at that end of the island.

Q. Did Colonel Cockburne make any alteration in a detachment posted there?

Court. You ask these questions over and over again, and you generally receive the same answers, now I wish to ask Colonel Cockburne, whether he admits any of these questions?

Colonel Cockburne. If they had asked me the question yesterday, it would have saved the Court a great deal of trouble, I would have acknowledged every thing that I could have acknowledged, I would have admitted a great many things that a long list of evidence was called to; I admit all this.

General Maitland. Because he is calling witness to prove the same facts over and over again.

Colonel Cockburne. I admit I did succeed to the command on General Ogilvie's death, I will admit every question that has been asked the witness.

Accuser. Q. Do you recollect a report was made to Colonel Cockburne, respecting the practicability of an enemy's landing at Jenkins's Bay?

A. No, Sir, I was not privy to any report made to Colonel Cockburne?

Q. Was it not customary for all the guards to be reported to the captain of the picquet?

A. The different guards reported to the Captain of the picquet, except the Still-house guard, which is a subaltern's guard, the subaltern reported to Colonel Cockburne himself.

Q. What distance do you suppose it was from Tumble-

Tumbledown Dick to Concoram round the coast?

A. By water or by land.

Q. By water.

A. I never went by water; from my present ideas I should imagine it might be near two miles, I cannot say positively.

Q. Was not that part of the coast intersected with bays and creeks, and surrounded by high land on every side?

A. There were some bays and creeks, and surrounded by high land, except immediately about Concoram.

Q. Was it not therefore, from the situation, the most likely to facilitate the operations of the enemy in attempting a surprize?

A. That is merely a matter of opinion, I apprehend I cannot answer it from mere ideas.

Court. Q. As to your own opinion?

A. I should imagine there were other parts of the island as likely.

Acuser. Q. What was the force that was stationed from Tumbledown Dick to Concoram to guard that fort?

A. None that I know of.

Q. Did you ever hear of any bay or bays, situated between Tumbledown Dick and Concoram?

A. There were several.

Q. Did you ever hear the island had been surprized at or near Jenkins's Bay.

A. I have heard that it was surprized at Jenkins's Bay, in the year 1702.

Q. Did Colonel Cockburne construct batteries in every bay and creek that was accessible?

A. There were no batteries constructed at the end of the island.

Q. Did you ever hear that there was a battery with two guns or a gun, erected by the former possessor of the Island, at Jenkins's Bay?

A. I do not recollect to have heard that there were.

Q. Where, and at what time was it, that the enemy effectually landed at the island of St. Eustatius?

A. It was generally supposed to be in the neighbourhood of Jenkins's Bay, the 26th of November, 1781, early in the morning.

Q. In case the enemy had miscarried in taking this bay, might they not, in your opinion, have made their embarkation good at Tumbledown Dick?

A. I should imagine they might, for any guard that was there would make more riot, and being exposed to the troops, would meet with an opposition in consequence.

Q. Were there any guards or sentries at the side the enemy landed at, between that part of the coast, and the skirts of the garrison?

A. If you go into the island part of the country there are none.

Did any general orders appear from Colonel Cockburne, intimating any intelligence he had received, or any apprehension he was under of the island's being attacked by the French, to stimulate them if possible, to a greater degree of alertness and attention, when on and off duty?

A. I never heard nor saw any orders to that purpose.

Q. Was there any patrolling parties ordered latterly, to prevent a surprize?

A. Patrolling parties had been ordered from the beginning in General Ogilvie's time, to go and to mount guard every half hour, I always enquired whether they regularly sent up their patrol latterly, there was no further patrol ordered that I know of.

Q. What were the orders that the patrol parties had?

A. To see that every thing went on regularly, and to keep every thing quiet.

Q. Do you think the intention of the patrolling was ever to guard against a surprize?

A. I should imagine that that was to be conceived to be the intention of them.

Q. Were these patrolling parties ever ordered to go out of town, or visit any of the guards that were detached from the town?

A. They went at night to the extreme parts of the bay, from Amsterdam Fort into Provision Guard, and in the day time, to the extremity of the island.

Q. Was it an officer that visited the distant guard or patrolling parties in the course of the day?

A. An officer of the lieutenant of the post, the captain of the day visited every post, previous to the making the report to his commanding officer.

Q. Did the officer ever visit those detached guards on the fourth part of the island in the course of the night, by Colonel Cockburne's orders?

A. Not by night, the posts at that end of the island were only visited by day.

Q. Were not the posts formerly visited in the course of the night at the extreme part of the town?

A. They were at the extreme parts of the lower town.

Third Day's Proceedings.

Captain MADDEN called again:

Q. Did it ever come to your knowledge that Colonel Cockburne was personally active in reconnoitering the several bays in the island, to enable him to have a competent knowledge of its strength?

A. I do not know that he did reconnoitre.

Q. Do you think that the quarters of the officers in general, during the command of Colonel Cockburne, were particularly connected with the regiments or companies they belonged to, or quite otherwise?

A. No, Sir, as far as I recollect, they were a good deal intermixed with one another, the 13th with the 15th, and the 15th with the 13th, I mean that those officers quartered with the natives.

Q. Did not Colonel Cockburne assign quarters to Colonel Stopforth of the 15th, at a considerable distance both from his regiment and from the garrison?

A. The house that Colonel Stopforth latterly occupied was a good distance from our alarm post, and a good distance from the regiment.

Court. Q. By latterly occupied, you mean his quarters?

A. I understand so; it was a little outlet from the town, it was near half a mile; I believe not quite so proper much.

Q. What distance were Colonel Stopforth's quarters from the alarm posts of the 15th regiment?

A. I should imagine it was near an English mile.

Cross examined by Colonel COCKBURNE.

Q. Whether I might not have reconnoitred unknown to him?

A. Most undoubtedly often.

Q. Were not the quarters of the garrison at the distance he has mentioned, before any command?

A. They were, there was no particular district assigned for the quarters of either regiment.

Court. Q. Whether at any time during General Vaughan's command, or General Ogilvie's, there was any guard at Jenkins's Bay?

A. Not that I know of.

Q. Were there any troops posted on the garrison, at the road to Jenkins's Bay?

A. Not any as I recollect, one thing I beg leave to mention, not on the inland part of the island, on the coast side there were.

Accuser. Q. Was not the guard General Ogilvie placed at Tumbledown Dick, supposed to be the protection for that quarter of the island?

A. Most undoubtedly, it is the only post to guard that part of the island.

Court. Q. Then I suppose the sentries of that picket extended themselves that way?

A. One sentry was posted on a summit above the guard, and had a most extensive prospect, and must have seen every thing that came.

Court. Q. Had any of the sentries at Tumbledown Dick a view of Jenkins's Bay?

A. I fancy it must be a little under them, they could not see what happened in Jenkins's Bay, but they must have seen every thing that approached that bay.

Judge Advocate. Q. Whether or no any specific orders were given for the duty of that post, before it was reduced to a corporal's guard?

A. I believe the orders in general were to support the post, the intention of the post was to prevent a surprize; I know of no particular distribution of centinels.

Capt. JOHN MACLAURIN of the Navy, sworn.

Accuser. Q. Did you not command the Triton frigate in the West-Indies, in the year 1781?

A. I did.

Q. Was you not sent by the commander in chief, General Christie, to Colonel Cockburne, at St. Eustatius, in September, 1781, with an offer of a reinforcement to his garrison?

A. General Christie made application to the commanding officer for a frigate, to go down with cash to pay the troops, and some victuallers, and a vessel with stores belonging to the 13th regiment; I went upon that service; I had a memorandum from General Christie to call on Colonel Cockburne, which memorandum is here, I accordingly asked Colonel Cockburne, if he was in want of any troops, he told me he was not in want of any troops, I told him, I was in possession of such a memorandum from General Christie, but I believe I did not shew it him at that time; I communicated the contents of it to him.

Q. What passed between Colonel Cockburne and you?

A. I recollect no further that passed, only Colonel Cockburne complained of the conduct of some of the troops that were then under his command.

Judge Advocate. Q. Did he say any thing relative to this particular matter?

A. I do not recollect that he did, he said, he did not want any reinforcement.

Accuser. I beg he will repeat verbatim the conversation that passed between Colonel Cockburne and him on that subject.

A. I believe the whole was this, Colonel Cockburne complained of the troops that were then under his command.

Judge Advocate. Q. Did he specify any?

A. Yes, he said, he had vagabonds enough, or something of that sort, I did not expect to be particularly called upon: that is the whole that I recollect to have passed.

Accuser. Q. Is there not a surf all round the shores of the island, and particularly towards the town?

A. Very often it is so.

Q. Have you not very often known instances of great difficulty in landing at the town?

A. I have been very little at St. Eustatius, but I have been told, that St. Eustatius is much like the rest of the West-India islands, where I have often

been, and know it impossible for any boat to approach the beach for days with safety to land; I remember one instance, Admiral Rodney was once disappointed in getting on shore there, I never was but twenty-four hours on the island.

Accuser. Q. Is there not more surf in the night than in the day, owing to there being less wind?

A. It is impossible for me to ascertain that, because I never slept a night on shore in St. Eustatius in my life.

Court. Q. Does the sea breeze set in generally by night or day?

A. We have the common trade winds there, but very often when we have the least wind, we have the highest surf on the island.

Q. Were there not an upper or lower town, and was not the hill between them so scraped away, as to make it necessary to use tackling to raise the merchandise from one to another?

A. I remember the hill was so very steep that there were anchors sunk in the path ways to fix purchases to, in order to get the goods to the top of the hill.

Q. How long and broad do you take the island to be?

A. The breadth I cannot say to, I never travelled it: the length; I have sailed often all round the island; I take it to be five or six miles long.

Q. What day did you deliver that message to Colonel Cockburne?

A. I think it was the 1st of October.

Q. At what distance could vessels be seen at sea from the ridge of the island in the day time, I mean from the upper town from the garrison?

A. There is much depends on the weather as to the seeing the objects at sea, but in general about 10 or 12 leagues from the upper part of the island.

Q. How far do you judge they could be seen from the shores in the night time, in a clear moon light night?

A. I suppose from 6 to 7 miles, in a clear moon light night.

Q. Did not the chief defence of the island consist in keeping a good look out, to prevent the enemy's landing?

A. Yes, undoubtedly.

Cross examined by Colonel COCKBURNE.

Q. Was any one present when you communicated to me the contents of that memorandum you have mentioned?

A. There was the pay-master's clerk, a Mr. Wilson, and a Mr. Jeffery; I believe there were some gentlemen in the house with you, but whether they took notice of the conversation I know not.

Q. Can you possibly swear that I made use of the word vagabond?

A. Yes, Sir, I think that was the expression, your words were, after you complained of the conduct of some of the troops under your command, and reflected on them, you said, you had vagabonds enough already, or more vagabonds than you could wish: I did not think I should be called out to mention the particular words.

Q. Do you think as a sea officer, that a vessel of war stationed there would have been any protection to the island?

A. If there was a superior force to the enemy there, they would have been a service to the island; but an inferior force would have been obliged to have claimed protection from the island.

Q. Would not a vessel have been able to discover the arrival of an enemy and give the proper signals accordingly to the garrison?

A. They would have been able to have seen the ships certainly, and if there was a signal settled, it would have been very easy to communicate, if they were awake.

Judge Advocate. Q. They might then?

A. I suppose so if they were on the watch.

Accuser. Q. In your opinion do you think the commander of that island should have been more alert, when there were no ships, than when there were, to prevent a surprize?

A. I look upon it that any officer in war time, should be upon his guard, whether he was I do not know.

Court. Q. When you are on board a ship, at what distance can you generally see ships?

A. Four or five leagues.

Q. Suppose you had been with a vessel, you could not have given a quicker information than that port that could see at 8 or 10 leagues?

A. I do not suppose we could.

Q. Do you mean that the surf was greater on the leeward side, than the windward side of the island?

A. No, Sir, I said, there was very often a great surf, but I did not mean that it was particularly on that side of the island.

Q. Was you ever near to Jenkins's Bay to judge of the surf there?

A. I cannot particularize where Jenkins's Bay lies.

(The map shewn him.)

A. I was not near enough on shore to judge of it.

Q. Did you ever hear that Colonel Cockburne had made application to the commanding officer of your island, for a frigate to be stationed for the defence of St. Eustatius, or had a correspondence with him for a general defence of the place?

A. I never heard that Colonel Cockburne had made any such application.

Q. Could

Q. Could a ship bring too, near enough to silence the guns on the battery of Tumbledown Dick?

A. I cannot give any answer about Tumbledown Dick.

Q. How near are ships customarily stationed when at anchor off St. Eustatius?

A. There were some of the men of war to the best of my recollection within three quarters of a mile off the beach, I believe there is plenty of water for some of the largest ships within that distance of the shore.

Q. There might be water for ships to ride nearer, though they could not come nearer the shore?

A. The wind generally blows for great part of the year in one point, so that the wind blows them out.

Q. Did Colonel Cockburne specify to you on what he founded his objection to the troops?

A. I cannot say.

Colonel Cockburne. Q. Though sentries from the hills might not discover ships at sea, might not a vessel stationed there have discovered them even by their noise, though they could not see them?

A. The vessels in the road certainly could not discover them till they were round on the north point of the island, then they must be within three or four miles of the vessels before they could discover them; I look upon it vessels going upon service of that kind, would take particular care to make as little noise as possible, because their service depended very much upon their making as little noise as possible.

Q. A vessel that sails at smooth-water makes a very little noise?

A. Very little.

Colonel Cockburne. Q. Could the enemy effect a landing unknown to that vessel, suppose it to be stationed there?

A. I look upon it if they kept a good look out, they must see their boats in such a clear moon-light night as this is described to be, coming and going.

Q. Supposing the vessel to have been stationed to windward of the island, could the enemy effect a landing on the coast without being heard?

A. That depended upon the force of the vessel that was there, it would not be prudent for one single vessel or frigate to go there without making a private signal, which would have been answered; she could shelter under the island, but she was to judge, whether she chose to take protection under the island or take the sea.

Q. Repeated.

A. I really cannot say, that depended entirely on the situation that vessel must be in, she must be in a particular spot Sir, to ascertain that.

Q. The meaning of my question is, whether that vessel had it in her power to give any alarm?

A. Not unless she was particularly stationed on that spot.

Court. Q. If guard boats had been stationed by order of the commander at Jenkins's Bay and Tumbledown Dick, to row within and without the Bay, could the enemy have so passed them, as to be able to land without an alarm being given to the guards on shore?

A. I imagine the boats must give an alarm.

Colonel Cockburne. Q. Do you recollect upon your coming to me from Barbadoes, as you mentioned on the first of October, that I asked you, if you was to be stationed there, having been promised one or two frigates constantly.

A. I believe Colonel Cockburne spoke to me about being stationed there, what it was I cannot say.

Accuser. Q. Were there not frequent communications from the garrison to the adjacent islands, vessels coming in daily or very often?

A. I cannot answer that question.

Lieutenant GEORGE LEWIS of the Royal artillery sworn.

Accuser. Q. Do you know of any report being ever made to Colonel Cockburne, of the practicability of an enemy's landing at Jenkins's Bay?

A. Yes, Captain Garstin by desire of Colonel Cockburne rode round the island, to see where there was any place that was practicable for an enemy to land on, he went to Jenkins's Bay, and upon his return, he reported to Colonel Cockburne, that a landing might be made at that place; but it was very difficult of access by reason of the hill about it.

Judge Advocate. Q. Was you present when this report was made?

A. Captain Garstin informed me so.

Judge Advocate. Q. The first question was whether you knew it, and you answered Yes.

A. I was informed by Captain Garstin, I did not know it otherwise.

Judge Advocate. Q. When was this told you by Captain Garstin?

A. I cannot exactly name the time.

Q. Was it before or after the capture?

A. Before, it was at a time when I went with Captain Garstin, and viewed a place that we found the enemy might make a landing, upon which Colonel Cockburne ordered a battery to be erected there.

Court. Q. Was it long after or soon after?

A. I am not sure as to the time.

Accuser.

Accuser. Q. Was there a single man posted there after this?

A. There was not.

Q. How many signal houses were erected on the island, and by whom?

A. There was only one erected, and this was only a small place built for the colours to be put in, and for the men to stay in, in the day time, out of the sun, it was not above six feet by four as to the size of it.

Q. By whom was it erected?

A. By Captain Garstin of the artillery.

Q. Who commanded at the time?

A. I imagine Colonel Cockburne at that time, but the post was fixed before that.

Judge Advocate. Q. Was there any house?

A. Not at the first, there was not immediately, but shortly after there was, I cannot charge my memory, it was shortly after the post was fixed where they were to make the signals, there was a signal during General Vaughan's command.

Accuser. Q. Could he from that signal house command a view of all the northern coast particularly Jenkins's Bay?

A. He could not see Jenkins's Bay.

Q. Had a signal house been erected immediately on the high grounds above Jenkins's Bay; do you think that the fleet could approach without being observed either by day or night?

A. I do not think they could, signals might be made from that hill to the other.

Q. Had there been a guard or sentry at that signal house which was erected, do you think that the enemy could even after they had landed have advanced to the garrison, without being discovered and checked?

A. I think had there been a guard, and people been alert, it was impossible for them to pass by that hill without being discovered as they must pass close by.

Q. In case the enemy had miscarried at their taking this bay, could they not have made their embarkation good at Tumbledown Dick?

A. I think if they had made an attempt there, there could be very little resistance made.

Q. Is the surf at Tumbledown Dick more or less than it is in the town or bay, called the lower town or bay?

A. The surf is sometimes more in one place than another as the wind changes, but I have been several times at Tumbledown Dick, and there might always have been a very good landing made there, there was not so much surf as would prevent their landing.

Q. Do you recollect a stone wall erected by Brigadier Ogilvie, between the Grand-parade and Amsterdams Fort?

A. I do recollect a stone wall, at least I can scarce call it a wall, it was loose stones, heaped one on another.

Q. Were not those stones put there by the brigadier, with an intention if the enemy came that way to stop their progress?

A. I imagine to check the progress of the enemy, but there was a few yards further about, that they might come with the greatest ease.

Q. Were they not to have ascended a bank or hill, before they had got to those few yards, supposing they had landed at Amsterdams Fort, to have got round to the place that you mentioned, which you say, was but a few yards round?

A. They must ascend rather a hill, not quite so high as the other part of the hill; but it was a hill.

Court. Q. Was it sharp or slope?

A. Rather sharp not a very high ascent.

Q. What was the height of this wall?

A. Not above ten feet, because the negroes used to get over it very easily, it was loose stones, heaped on one another, only loose stones.

Q. That is what you call a dry wall, what is the thickness of that wall?

A. It might be about two feet thick at the top, then it sloped down.

Q. Were there loop holes for troops to fire?

A. No.

Q. Was there any banking within, for soldiers to mount on to fire over it?

A. No, there was not, they might have made them as steps to put their feet on.

Accuser. Q. Being in the street, was the wall closed on each side?

A. It did, but they might have got round through a man's yard.

Colonel Cockburne. Q. Do you think this wall could in any shape check an enemy's landing, and making an impression upon that part?

A. I can scarce call it a check, it would be scarce a check, because they could go through this man's yard.

Court. Q. Was the wall in this state of it, in the view of it, really a check or not?

A. A very short check.

Accuser. Q. I beg to know if that wall was standing at the time of the capture?

A. It was not.

Q. Was it pulled down during Colonel Cockburne's command?

A. Yes, Sir, it was pulled down, but I do not know by whose orders, it was at that time as I thought of so little consequence, that I did not enquire by whose orders it was taken down, I remember missing it.

Q. Do you recollect a road very accessible, leading from Jennings's new house up the hill towards the

hospital of the 13th regiment, being stopped up, or scraped, so as to prevent an enemy possibly getting up there; I mean ditches being cut across?

A. I do remember a road there, and it being rendered rather more inaccessible than it was before; the negroes used to go up with water, but it was difficult.

Q. Was not the communication to that road quite open at the time of the capture, and as easy of access as formerly?

A. I was not up that road for some time, so I do not know how it was.

Q. Did you ever go that road during the time Colonel Cockburne commanded?

A. Yes.

Cross examined by Colonel COCKBURNE.

When Captain Garstin reconnoitred Jenkins's Bay by my order, did he reconnoitre any other place?

A. Yes, he went to a place called the English Quarter before that, I went with him the same morning, he went there before, and after he went to Jenkins's Bay.

Q. What was the consequence of your reconnoitring it?

A. His returning a report to Colonel Cockburne, that a landing might be made there, in consequence of which, Colonel Cockburne ordered a battery to be erected there.

Q. Though the men on the Signal Hill could not immediately have a view of Jenkins's Bay, could they not see vessels moving to the coast there?

A. They might at some distance.

Court. Q. If a signal by a sky-rocket had been made from that position at Jenkins's Bay to Tumbledown Dick, to announce the approach of an enemy, would they have been seen from Fort George?

A. I think they might.

Q. Were any such signals established that might?

A. Not by rockets.

Court. Q. What guard was at the signal?

A. There was no guard only two men of the artillery who were not a sufficient guard, they were there all day until to dusk of the evening, they lived at a house below, they withdrew by night, it was only a box, it was not sufficient for them to live in.

Court. Q. Was there any artillery?

A. There was a cannonade.

Q. During your residence in the island and before the capture, had you understood that the island had formerly been surprized?

A. I had understood from the inhabitants that the island had been taken, whether it had been surprized or not I cannot say.

Q. Did you hear where the enemy landed at that time?

A. At Jenkins's Bay, as I was informed by the inhabitants in the course of conversation.

Q. You say there were only two artillery men, do not you think a surprize very likely to be effected by night, or very early in the morning rather than by day?

A. I do.

Q. If this is your opinion, or were greater precautions taken to your knowledge to guard against a surprize at night than by day?

A. Not that I recollect, except that there was a picquet mounted in the evening, but that was near the main body.

Q. Was this an inlying or outlying picquet?

A. An inlying picquet.

Q. What extensive view might be from the Signal House, and how far could you see the main, and what of the island?

A. One could see round about the island except Jenkins's Bay.

Court. Q. Could you see Tumbledown Dick?

A. No, you cannot, it lays intirely between high hills all the way.

Q. What is the length and breadth of the island?

A. I understand that the extremity in length is about seven miles, the breadth of the center of the island could not be above two miles, if so much, in that narrow part from Concoram Bay.

Q. What was the distance from Fort George to Jenkins's Bay?

A. I imagine it may be three miles and a half or four, and very difficult, a very bad road.

Q. Do you think by notice being given by a guard placed at Jenkins's Bay, that the officers commanding, the fentry being quartered nearest Jenkins's Bay, could have marched the company in time to oppose the landing of the enemy there?

A. I do think to, for I understood they were a long time getting up this precipice, it might not have prevented their landing, but it might have prevented their getting up this precipice, if they could meet with the officers, but they were so divided; but the guard itself, had one been there, might have prevented them for a short time getting up that hill by throwing stones on them.

Q. It appears that the officers were not connected, they were promiscuously about?

A. Yes, they were a long way from their companies.

Q. Was there any strong ground between Fort George and Jenkins's Bay, close to which the enemy must necessarily march before they could reach Fort George?

A. Yes,

A. Yes, most part of the way they were forced to come through a narrow pass, which seemed to be formed by torrents of water; and which they must necessarily pass till they came near Signal Hill; it is a very bad road till they come to Signal Hill, between the hill.

Q. Do you know of any steps having been taken to oppose the enemy at this pass after it was known the enemy had landed at Jenkins's Bay?

A. There could be none, the enemy was in possession of the town. I believe before any body knew they were landed, I think so at least, it was so by myself, I did not know.

Q. The enemy having effected their landing on the island, and forced the outlying troops to repair within Fort George, how long do you think the fort could hold out?

A. I think it could make no defence at all.

Q. Was you there in General Ogilvie's time?

A. I was there about three months during General Ogilvie's time.

Q. How broad was the road leading to the wall?

A. There might be breadth for one carriage to pass; about four men abreast.

Q. You said, there was a road of pretty sharp ascent, how many men abreast could have gone up that road?

A. Much about the same, but when they got up there was a narrow path upon the edge of a hill.

Q. You mentioned a way through a carpenter's yard, in what breadth could you have got there?

A. Not above one at a time.

Q. When was the wall removed?

A. I do not know, there was another by Amsterdam Fort, and there was a fort of a path between the edge of the hill, at what they call the Kings Pieces, the road by Amsterdam Fort was narrow, unless they went by the sugar-canes.

Q. This road was as obvious as the other?

A. It was not public, but they used to go that path.

Q. What is the nature of the work at Fort George?

A. It was quite irregular and had a battery towards the sea, which they were forced to have light guns upon, for it was so near to the sea that heavy guns would have thrown it down; it was made by the ditch that was quite irregular, and not tenable I think for any time; it would resist a coup de main I suppose; there was no ditch; there was something that had the resemblance of a ditch full of prickly pears; they had brought mattraies to hinder the prickly pears from running into them as I was informed by the French officers.

Q. In your opinion did not the defence of the island depend on an opposition to the enemy before their approach to the Fort?

A. I think so.

Q. Was the fort frized or not; and if not all, what part of it?

A. It was not, the front part was close to the edge of the bank, and while most of the guns were pointed close to the bank and round towards the church, which was to the left of the fort; men could get in and out over the walls with the greatest ease.

Q. Do you know of any repairs or additional works made for the better defence of the fort by Colonel Cockburne, and at what time?

A. Not that I recollect.

Q. What number of guns were mounted on the ramparts of the fort?

A. There was an eighteen pounder and some six-pounders, the number I cannot recollect.

Q. What number of men do you think could be conveniently quartered within the fort for its defence?

A. We had not above thirty men including artificers and artillery men, and there was scarce room for them.

Q. What rank do you hold?

A. I am lieutenant of the 1st regiment of artillery.

Q. Did you, or did you not, receive your education at the academy at Woolwich?

A. I did.

Q. For what time did you attend the academy, one, two, or three years.

A. From the beginning of 1771 to 1776.

Q. With respect to the narrow path supposed to be formed by torrents of water, how many men can go abreast there?

A. In some places they could not go above one or two abreast, sometimes four, it was quite irregular till they came to the Signal House, then the road came to be open and broad.

Q. Did the narrow path continue any length?

A. Almost from Jenkins's Bay to the Signal Hill.

Q. How far is the Signal House from Fort George.

A. I imagine it may be better than a mile.

Q. Is not the country open from there?

A. Yes, that is the open part of the country, I suppose it was near two miles from Jenkins's Bay to the Signal House, but the badness of the road made me think it more.

Q. Could ships of force anchor in Concoram Bay?

A. No, I think not.

Q. What

Q. What number of artillery men were there on the island when it was captured?

A. Two officers besides myself and 25 men.

Q. Were there any additional gunners to assist the artillery men?

A. There were.

Q. How many?

A. I cannot state exactly their number, but I think there was about forty, so many from each company, but they did not quarter in the fort.

Q. What number of gunners were sufficient to man all the guns in the different batteries?

A. I think there were sixty-five guns in all, of different metals, but there was not enough, for they stopped men from the regiments to man them, it would have required more men than could be spared from the two regiments, they had not actually men to man the guns properly, different sizes take different numbers of men.

Accuser. Q. Was there not a number of Negroes doing duty with the artillery men?

A. Not at the time of the capture, the Negroes were chiefly for the engineers business.

Q. In your opinion did not the safety of the island depend upon keeping a good look out.

A. I suppose the entire preservation of the island depended upon that.

Q. Did Colonel Cockburne to your knowledge ever visit any of the out-ports or reconnoitre the bays, and creeks of the island?

A. Not to my knowledge.

Fourth Day's Proceedings.

Lieutenant LEWIS *Cross examined* by Colonel COCKBURNE.

Q. Had the enemy attempted an embarkation at Tumbledown Dick, was the guard there sufficient to give the proper alarm?

A. No, only they might have fired guns, but I am not sure whether they might have been heard.

Q. Might I not have reconnoired often unknown to you?

A. You might, but I think, I should have heard of it.

Q. By what means could you have heard of it, or did you hear every morning where I went?

A. No particular reports, but from the men of the different batteries, no doubt but they mentioned, if Colonel Cockburne had been that way.

Court. Q. Did you hear in the morning where Colonel Cockburne went?

A. I did not.

Q. Where did the enemy make their landing good?

A. At a place called Jenkins's Bay.

Q. How do you know they did, by what means?

A. After the capture I rode with the French officers of the artillery behind Tumbledown Dick and Jenkins's Bay, and he pointed out the spot they landed at.

Q. If the post at Tumbledown Dick was not sufficient to give the alarm, was it sufficient to defend the post well?

A. I do not know.

Q. The reason of my making this, I find the post was established by General Vaughan, with twenty men, and continued by General Ogilvie, now they judge it of material consequence?

A. I do not think there was sufficient to defend it, there were nine guns.

Q. Have you been informed whether the nine guns were there in the Dutch time?

A. They were not, they had guns but all were bad, not the same guns, they were unfit for the service.

Q. How many artillery men were stationed at that post?

A. Only one.

Colonel Cockburne. Q. As Lieutenant Lewis has given his opinion at large with respect to the post, I should be glad to ask him whether, if that officer and twenty men had remained at Tumbledown Dick, they were sufficient to repel an attack?

A. I do not think they were sufficient for the defence of the place.

Court. Q. If the corporal and three men had done their duty in keeping a good look out, would there not have been a sufficient time to send to the garrison for a reinforcement, before an enemy could have landed, and that reinforcement to have arrived in time to defend the post?

A. From that battery they could not, I imagine, see the ships, there was a point between that, they could not see from the one to the other, they might convey the news to Signal Hill, and they might have fired an alarm, but then the men must have quitted their post to have done that.

Q. Whether the guns being fired at the Signal House, the commandant would have known the attack was at Tumbledown Dick?

A. The commandant would only have known that there was an attack made at some place, not any particular one.

Court. Q. If the twenty men would not have been sufficient to repel the enemy, were they not sufficient to dispute the point with them?

A. They might have fired upon the enemy but not many times, they might have fired upon them

as the guns were always loaded, but they could not have made any defence I think, as they were heavy metal, eighteen pounders.

Court. Q. What was the nature of that ground of the post at Tumbledown Dick, with respect to the sea?

A. It was a low battery that did command a kind of a bay that was there, Sandy Beach; but I think a ship bringing her broadside under it, men could not well stand fire; it was very low ground there were embrasures.

Q. Did you know what were the standing orders to the officers that had the command of the post at Tumbledown Dick when it was first established?

A. I believe the usual orders that were given to the officers of the guards were to defend it as long as in their power.

Q. Because it says, there were 2 serjeants, 2 corporals and 20 men, which is not the usual number?

A. It was a kind of detachment, it was for a week. *Q.* How near could they come before they could probably have been perceived by an alert sentry from Tumbledown Dick?

A. Tumbledown Dick laid very low, and the land very bluff about it, high land, they might not have been perceived till they were within cannon shot of the place.

Court. Q. Be a little more particular what distance they could have come round.

A. A point blank, they must have had the wind to have come round, they must have tacked before they could fetch in.

Q. What distance must they have been in?

A. I did not know the soundings.

Q. Whether they could have come all the way close to shore so as to be longer concealed in their approach?

A. They must have been seen plainly before they could have come to anchor?

Q. Must they have stood out before the attack at some distance?

A. In the course of their standing close to wind they must rather have gone off.

Q. Do you mean that boats could not have rowed in under the shore.

A. Yes, boats could have rowed in, but ships must have stood out, the vessels that they use in the West-Indies would have worked in very well; I thought you meant men of war, they made use of small sloops and schooners, and vessels of that kind, which would work in very well.

G. Taylor. Was there any post or detachment of any sort at Jenkins's Bay prior to Colonel Cockburne's command?

A. There never was.

Accuser. Q. Would not the detachment at Tumbledown Dick, which was at the time of General Ogilvie's command, have defended the narrow path or road leading to the garrison for some time, and by that means have stop't the progress of the enemy?

A. I think they might?

Q. Could the signal man from Signal Hill, in the situation he was, have alarmed the garrison by firing a gun in the night time?

A. I think if they had fired a gun it would have alarmed the garrison, but they were not in a situation to do it in the night, by their quitting the hill at night, to go down to their quarters at a house at the hill; only two men being below the Signal Hill.

Accuser. Q. Were the signal men allowed to sleep in that house at Signal Hill or under the hill?

A. They were.

Court. Q. When it rained or in bad weather?

A. No.

Q. As near as you can guess, what was the distance from Tumbledown Dick to the post at Signal Hill?

A. I imagine it is near a mile to Tumbledown Dick from the Signal House; there is not much difference between that and the distance to Jenkins's Bay, one leads to the right and the other to the leeward.

Q. My question leads to the strait line, could they see the strait line?

A. No.

Q. Whether a ship could in a clear night or in any night that was not remarkably dark, come so near to the shore as to be seen from the Signal House?

A. If they are not seen at a distance, I think they could not be seen when close to the coast.

Q. I mean specifically at Jenkins's Bay?

A. If they were not seen at a distance they would not be seen when they were under the land.

Q. But could not they be seen at a distance from Signal Hill?

A. You could see them at a vast distance, but it was a mere chance, and it must be a very clear day, you might see them at a great distance.

Q. Do you mean that they could be seen at night at a distance?

A. No, in a clear day, but if they came unperceived near in, they could not be seen then.

Q. Could they be seen at all, at night?

A. I do not think they could, because ships coming with hostile intentions would not carry lights and they could not be seen.

(Ordered to withdraw.)

Lieutenant MACKENZIE of the 15th regiment

sworn.

Accuser. Q. Was you present on the island of St. Eustatius during the command of Colonel Cockburne, and the time of the surrender?

A. Yes.

Q. Do you know that Colonel Cockburne was informed of the designs of the enemy in the island of St. Eustatius?

A. He was.

Q. Inform the court of your knowledge.

A. Two days before we were surprized I was with a Mr. Rofs, who informed me that the enemy was forming an expedition against St. Eustatius, and that they meant to make a landing at the back of the island, that he had mentioned it to Colonel Cockburne who damned the information.

Judge Advocate. This is only hearsay evidence prior to the capture?

Accuser. Q. Do you know that Mr. Neagle who lived in Colonel Cockburne's family, went several times secretly to Martinique, previous to the capture of the island?

A. I do Sir.

Q. When did you know it?

A. I do not remember the particular time when; it must be about a month or two before the capture.

Judge Advocate. But you are absolutely sure it was some time before the capture.

A. Yes.

Q. How came you to know that Mr. Neagle did go to Martinique.

A. Having some furniture, which I bought by the permission of the commanders in chief, and not having any opportunities of sending them, I had frequent occasions to make apologies about it; Mr. Neagle knew of my writing, and on this occasion, told me, that he was going to Martinique privately, and that only Colonel Cockburne and him were informed of it, therefore desired me to keep it particularly a secret, he said, he should go off the evening before, I wrote to Monsf. Touche by him to Martinique; he was cleared out for St. Lucia, but was in fact going to Martinique.

Q. Was the letter which you sent by Mr. Neagle ever acknowledged?

A. I do not particularly remember it might, but I had several letters from Monsf. Touche.

Q. Was it generally understood by the garrison that Mr. Neagle was a confidential friend of Colonel Cockburne's.

A. It was generally supposed so.

Q. Had Colonel Cockburne frequent opportunities of communicating his situation to the commanders

of his Majesty's navy and army in the neighbouring islands, by means of the number of vessels that were frequently passing from one island to another?

A. I should imagine so by the vessels that passed.

Q. Do you recollect that there were several vessels lying in the harbour of St. Eustatius for several weeks previous to the surprize and at the surprize?

A. There were some before the surprize, but I remember particularly at the surprize, a ship from Bristol with stores.

Q. Did canoes often pass from St. Eustatius to the island of St. Kitt's.

A. Frequently.

Q. Were you in a public capacity ever sent to Martinique?

A. Three times when I was in the West-India service by General Grant, and once by General Vaughan.

Q. Do you speak the French language?

A. I do.

Q. Do you know that it was owing to the intelligence the Marquis de Bouillie received of the neglect and inattention of the commander, Colonel Cockburne, that induced him to form the expedition against the island of St. Eustatius?

A. I suppose he would have sufficient intelligence before he would undertake such an expedition.

Q. But do you know the fact?

A. I do not particularly know that he had received intelligence, I should suppose so, I cannot say, that he had.

Court. Q. You said, that Mr. Rofs had informed you that he acquainted Colonel Cockburne, that the French intended to land on the back of the island, what part of the island do you mean by the back?

A. I mean the windward part, the north-east, which generally is called the back of the island.

Q. What is the distance from Martinique to St. Eustatius?

A. If I recollect right, I went it in two days.

Q. Did you go against the wind?

A. Rather against the wind, you might almost fetch it, I cannot specify the distance the last time I went, I was four days or more.

Q. There seems to be a constant correspondence between St. Eustatius and the Marquis de Bouillie by your account?

A. I bought the things at St. Kitt's by the permission of the commanders in chief.

Q. Because Mr. Neagle went frequently on other accounts, that you know nothing of?

A. I only know this.

Colonel Cockburne. Q. When did Mr. Rofs inform you of this intelligence, was it before or after the island was captured?

A. On Saturday the 24th of November, between 5 and 7 in the evening, two days before we were taken, the island was taken the 26th.

Q. Can you recollect whether Mr. Rofs told you the intelligence he gave me was verbal or by writing?

A. It would be verbal in consequence of the answer he received, I recollect he mentioned that he told Colonel Cockburne on Wednesday the 21st.

Court. Q. Did you come directly from Martinique to St. Eustatia.

A. I came directly, it was about two days.

Q. Mentioning Mr. Neagle's name, what is Mr. Neagle by profession?

A. He was a merchant before we took the island, I saw him in his store, then he sold as a merchant.

Q. What country was he?

A. An Irishman.

Q. Who is Mr. Rofs?

A. He is a merchant, he has property at Nevis.

Q. Is he in this country now.

A. He is daily expected, I was informed he was expected every hour.

Q. Do you know how Mr. Rofs came by his intelligence?

A. I suppose he has corresponded with almost every island in his extensive dealings, he heard of it, but how I cannot tell.

Q. Do you know what the instructions were, that Mr. Neagle had from Colonel Cockburne?

A. No, I know nothing more, than that he went privately, with the knowledge of Colonel Cockburne.

Q. Is Mr. Neagle in this country?

A. Not that I know of.

Captain ROBERT GARSTIN of the Artillery,
sworn.

Accuser. Q. Was you commanding officer of the artillery, and acting engineer at St. Eustatius, during General Ogilvie and Colonel Cockburne's command?

A. I was commanding officer of the artillery, but not acting engineer in General Ogilvie's time.

Q. Was you acting engineer in Colonel Cockburne's time?

A. I was, about a month before the surprize, I was commanding officer of St. Eustatius from the capture by Admiral Rodney, and I undertook to do the duty of an engineer, about a month before the surprize of the garrison.

Q. What were the number of the artillery men and others under your command, at the time the island was taken by the French?

A. I had a lieutenant and 27 artillery men, I beg to know what you mean by "others."

Q. Were there any negroes detached?

A. I believe about 4, or 5, or half a dozen.

Q. Were there not the number of soldiers out of the 2d regiment detached for the use of the artillery?

A. A serjeant a corporal and 36 privates.

Q. Do you know that Colonel Cockburne had received any information of the intention of the enemy against the island of St. Eustatius?

A. I understood from Colonel Cockburne that he received a letter from Mr. Rofs, who said, it was reported to the windward, that the enemy meant an attack upon the island, and were to land at a part called English quarter.

Q. Do you know where Mr. Rofs was, at the time he wrote this letter?

A. On one of the islands to the windward, I don't recollect the island.

Q. At what time did Colonel Cockburne communicate this remarkable piece of intelligence to you?

A. I really don't know Sir, the exact time, but I understood it was the morning he received the letter, it was some time the latter end of October.

Q. Did Colonel Cockburne give out any general orders in consequence of this information, to put the garrison particularly on their guard?

A. I do not recollect any orders for the garrison, I received some particular orders from Colonel Cockburne, he requested that I should go round the island and examine, and find out, if possible, English Quarter, and if there was a possibility of the enemy's landing there, to have a battery erected immediately, and if he did not erect any additional batteries, yet he was determined that the enemy should not catch him napping; I went with Lieutenant Lewis, I found out the place, and reported to Colonel Cockburne there was a possibility of the enemy's landing in two places; there was a very good beach; he begged of me to undertake the duty of an engineer, and to erect a battery immediately for 3 ten pounders, which battery was nearly erected, with a guard house and magazine, the morning the enemy surprized the island.

Accuser. Q. Did you survey Jenkins's Bay?

A. I did, and the whole island, agreeable to Colonel Cockburne's desire.

Q. Did you make a report after you had surveyed Jenkins's Bay, to Colonel Cockburne, and to what effect?

A. I reported to Colonel Cockburne, that there was a possibility of the enemy's landing, but that they would find it very difficult to get up the rock about three hundred feet almost perpendicular, that a few men posted there, would keep off numbers.

Accuser. Q. In consequence of that report, was there a guard or a single soldier posted there?

A. I never heard of any.

Q. At what time did you make that report?

A. Some

A. Some time in the beginning of November, I do not know the day.

Q. Did you, in consequence of the orders you received from Colonel Cockburne, survey any other bays?

A. I believe I mentioned before, that I surveyed the whole island.

Q. Did you find any other bays practicable for an enemy's landing, besides Jenkins's Bay?

A. There were many bays in the island, but they were all fortified properly.

Q. How many new batteries were erected, in consequence of that report that you made, of the bay's being accessible?

A. I erected two batteries in consequence of Colonel Cockburne's orders.

Accuser. Q. After you had surveyed the island by order of Colonel Cockburne, I wish to know how many new batteries were erected, besides that which you have already mentioned.

A. None Sir, every other place had been properly secured before, nature had fortified Jenkins's Bay.

Q. Do you think it possible for men at Jenkins's Bay to get up the side of the rock?

A. Very possible, the French army got up there.

Q. Was there not a battery erected by the former possessor of the island at Jenkins's Bay?

A. I never heard of any; I have frequently visited Jenkins's Bay; I never saw the smallest trace of a battery.

Q. Was there not a gun or guns posted at Jenkins's Bay?

A. I found two old guns, three pounders I believe they might have been.

Q. Do you know Colonel Cockburne often visited Jenkins's bay, before or after the report made to him of the practicability of the enemy's landing there?

A. I really cannot say whether he did or not.

Q. Do you know that Colonel Cockburne ever visited any of the distant bays or posts, after he had received intelligence of the designs of the enemy?

A. I beg leave to answer this question as I did the former one.

Q. Do you as an acting engineer, and an officer of great experience, think that every possible practicable landing place was guarded by batteries completely furnished?

A. I am of that opinion.

Q. When you say the batteries were completely furnished, I beg to know whether there was a single man posted at the batteries that were erecting or just finished?

A. I had an artillery man and an artificer at work, I had a bombardier there to receive the stores as they were brought in.

Q. Was that bombardier placed there to watch day and night to guard against a surprize?

A. He was there to receive the stores that I sent daily, and to see my order put in execution; I beg leave to mention that it was Colonel Cockburne's intention to detach two subalterns with a number of men, I cannot say the number, to that part called English Quarters, that two serjeants guards were to be detached to two batteries, the new battery, and the battery at Concoram which is in a line with it, so soon as I reported the guards were ready to receive them, my intention was to have reported the same on the unfortunate morning of the 26th, the day of the surprize.

Q. Were there not houses erected for the commanders of the captain's guard and subalterns, and likewise the serjeants detachments that you have mentioned?

A. The guard-room for the serjeants and the new battery would have been finished about twelve o'clock on the Monday, the day of the surprize, the guard-room at Concoram Bay had been finished for a considerable time, and I pointed out a house to Colonel Cockburne for the reception of the captain's guard which was rather central to the two batteries.

Q. Was the house that was appropriated for the reception of the captains and the subalterns, the property of the inhabitants, or the King's, and how distant from these detachments?

A. It belonged to the late Dutch governor of the island, it was about ten or fifteen minutes march, I believe.

Q. Had Colonel Cockburne frequent opportunities of communicating his situation to the commanders of his Majesty's navy or army in the neighbouring islands, by means of the number of vessels that were frequently passing from one island to another?

A. I have heard Colonel Cockburne frequently express his concern in not having a King's ship or a sloop of war in the bay, to convey his reports; and his thoughts to the commander in chief; that Admiral Rodney had promised him two sloops of war to be constantly at St. Eustatius, that he was grieved to find that there never was any vessel there, unless it was for the purpose of looking out for men, for the impress service; there were vessels passing and repassing, but very seldom I believe to windward, to Barbadoes not one in a month, I had opportunities of knowing it, as I was commandant of the fort, and had been obliged to clear out.

Q. In your opinion as an officer, should not Colonel Cockburne have kept a better look out when he had no ships, than when he had?

A. That seems to be matter of opinion, Sir, I wish to answer to facts, what I am master of.

Accuser. I must submit that opinion to the court?
Judge Advocate. The Court can form no opinion upon it.

Accuser.

Accuser. Q. Whether there were not frequent communications from St. Eustatius to St. Kitts and Nevis, Montserrat, Antigua, and St. Lucia, you did mention Barbadoes before?

A. Daily I believe to St. Kitts, sometimes to Antigua, sometimes to Montserrat and Nevis, and not very frequently to St. Lucia.

Q. Do you recollect that there were several vessels lying in the harbour of St. Eustatius previous to, and at the time of the capture?

A. There were constant bay schooners and sloops, passing and repassing the morning of the surprize, I believe there was a ship from Bristol, and one or two small sloops or schooners; I cannot be sure to the number.

Q. Did canoes ever pass from St. Eustatius to St. Kitt's?

A. They might without my knowledge, I believe there was an order of the garrison, that all canoes should be drawn up after sun set.

Q. If Colonel Cockburne had no canoes in his possession to have sent to St. Kitt's, if he thought proper could not he have taken those canoes that were drawn up at night?

A. I never knew Colonel Cockburne in possession of any canoes.

Q. Had not Colonel Cockburne a power of sending those canoes that were drawn up at night to St. Kitt's, were they not in his possession; and as governor and commandant of that island, could not he have sent them to St. Kitt's, to give any intelligence or information he thought proper?

A. I suppose Colonel Cockburne or any officer of the garrison, might have hired these canoes at any time.

Accuser. Q. Could not the commander of that garrison have impressed these canoes if he had thought it necessary?

A. I suppose he might, but I do not see any necessity of so doing, the inhabitants property was secured to them, after they had sworn allegiance.

Cross examined by Colonel COCKBURN.

Q. At the time you made your report to me of the last survey, do you remember that I mentioned, that your first attention must be applied to the most accessible places?

A. You gave me orders in general, to examine every place and every part of the island, and if it was accessible in any part, you would fortify it; I really do not recollect any further than what I have said.

Q. By whom was the signal post on the hill established?

A. Some time in February, 1781, General

Vaughan sent for me at the head quarters, and gave me these orders, which I lay before the Court, with orders to erect a flag-staff upon the Dutch church in the upper town; I observed to him, that fixing it there was of very little use, as he could see as far from his own window. A bill protesting it if to our view from the general's window, I recommended that spot to fix the flag-staff on. The general said, it was of very little consequence, it was only to make signals for the shipping coming into the harbour for the satisfaction of Sir George Rodney. I told him, I could fix a flag-staff there with very little trouble, and it should be up the next day; the general agreed to it, and ordered me to fix on a steady man of the artillery to act as signal man; I appointed a man, and the signals continued to be made agreeable to those on the table without complaint, to the day of the surprize; and I added another man, but without orders; I likewise got a twelve-pounder caronade mounted, to work about the hill to make signals there, in case of an enemy coming that road; I had it fixed on a travelling carriage. As the Court has been so obliging to indulge me so far concerning this hill, I beg to mention a few words more: A paragraph having appeared in Colonel Cockburne's letter, reflecting highly upon these men, who are men of good character, and real good old soldiers, I wish to mention to the Court that they are men who have been under my command for some years.

Accuser. Q. The same question would have been asked Captain Garstin in the next article of the charge; and if he will be so obliging as to defer it till he comes again, I will ask whether the men were upon their posts or not?

A. I wish to do away a prejudice that has been laid against these men; I believe it has been alleged against them without Colonel Cockburne's knowing any thing of the matter.

Accuser. It is anticipating a question that I mean to ask bye and bye, you will have an opportunity of explaining yourself, as I mean to close this first part of the charge at the examination of Capt. Garstin.

Colonel Cockburne. Q. Did I ever make any alteration in that signal post, or remove any other that was fixed by my predecessor?

A. Colonel Cockburne never made any alteration in that signal post, and I never heard of any other being fixed on by his predecessor.

Q. As captain in the fort you cleared out all vessels, I beg to know whether you ever cleared one out for any of the French islands?

A. Never.

Q. St. Lucia was ours?

A. Yes.

Q. Whilst you was upon the island, and before

the capture of the island, did you understand that the island had been formerly taken by surprize?

A. Not till after.

Q. I wish to know the nature of the ground between Jenkins's Bay and Signal Hill?

A. Very hilly; much higher hills in general between the Signal Hill and Jenkins's Bay than the Signal Hill: it was impossible to see Jenkins's Bay from Signal Hill.

Q. What distance might the ground be that commanded the Signal Hill from it?

A. The first commanding hill was between four and five hundred yards.

Q. What kind of road was it between Jenkins's Bay and Signal Hill?

A. Almost impassable: it seemed formed by the washes from the mountains; the heavy rains from the mountains,

Q. Was there not a narrow pass at Signal Hill?

A. Very narrow; not above a man could go a-breast.

Q. If you had commanded one or two companies at that pass, do you think you could have stop't any enemy long enough to have given time for the garrison to have got under arms in the night?

A. I do not think it a proper place, in my opinion, for posting of men.

Q. I mean any where on that pass?

A. I do; but not immediately where Lord Percy mentioned first.

Q. In consequence of your survey of the island, what places did you point out to Colonel Cockburne as the most essential to guard against a surprize of the island?

A. I reported English Quarter, and that an enemy might land at Jenkins's Bay, but that a few men posted there would keep numbers off.

Q. Did any of the heights there so command the bay and the ocean as to have a clear view of the bay and the ocean?

A. I do not recollect that any commanded entirely the coast of Jenkins's Bay.

Q. Was you upon the island when we first took possession of it?

A. I was.

Q. What time was that?

A. It surrendered the 3d of February, 1781.

Q. From that time to the 7th of May, I observe there was no alteration in any post at all; but on the 7th of May, 1781, I observe that post from having six men is reinforced with two serjeants, a corporal, and forty men. Did you ever hear any reason for that reinforcement?

A. It was the 7th of April, I apprehend; it was General Ogilvie thought proper to reinforce the guard at a place called Tumbledown Dick, which

has had the name since changed to Charlotte; I never heard any reason assigned for it.

Q. I find it was afterwards reinforced with a subaltern and twenty men; this was by General Ogilvie?

A. Yes.

Q. You do not know the particular reasons for doing it?

A. He never gave me any.

Q. But you inferred from thence that he considered it to be a post of importance?

A. I naturally supposed so.

Q. I think on the 1st of June that post was altered to a corporal and three men. Did you ever hear any reason assigned for so remarkably reducing a post that was deemed of so much consequence?

A. I never knew it to be deemed a post of very great consequence.

Q. I thought you said so just now.

A. I said, I thought the general might conceive it so; I did not deliver it as my opinion; I do not recollect any reason being assigned for increasing it or diminishing it.

Q. You have more than once said, that a very few men would keep a number off at Jenkins's Bay; did Colonel Cockburne take any steps in consequence of that, and was there any post established there?

A. There was no post established there; I never heard of any; I am clear there was none.

Q. In answer to Mr. Rogerfon's question, Whether all the posts of the batteries were properly provided, you said they were; now I cannot help observing a material difference between your evidence, and the returns. Here seems to be a sufficient quantity of ammunition of all forts.

A. The question that was put by Mr. Rogerfon, I beg it may be read to me.

(The question read.)

A. The batteries would have been very easily manned from the barracks, and in case of an alarm they were to be manned from the different posts; it would have taken more than half the garrison to have manned the guns; I answered the question, as to my department every thing was in proper order; with respect to Mr. Rogerfon, soon after General Vaughan quitted the island, I visited most of the batteries with General Ogilvie, (the batteries mentioned in that report, called by the names of Townshend and Gloucester, one of four, and the other of five eighteen-pounders; Townshend's had a great room upon it, which contained a company of the 13th regiment). General Ogilvie gave me orders to apply, in case of an alarm, to the officer posted near the company, which was Ensign Rogerfon,

Rogerson, for any men of that company I thought proper to command, for the purpose of manning the guns on these two batteries, or any other batteries I thought proper to detach them to; I looked upon that company, in case of an alarm, under my command, and of course should have detached the men to the several batteries contiguous with it; General Ogilvie gave Ehfrign Rogerson orders to keep near the company, and to be quartered near it, and he was quartered close to Fort Gloucester; therefore had we been so fortunate as to be properly alarmed, I should of course have repaired to Mr. Rogerson, in the quarter allotted to him by General Ogilvie, and given orders for a distribution of these men in the different batteries near that post.

Q. This application to Mr. Rogerson was to supply the great deficiency in your own department?

A. Yes, Sir.

Q. That was notorious to others as well as yourself?

A. Yes.

Q. Did you know that Colonel Cockburne ever issued an order to have a number of men taught the exercise of the great guns?

A. I had a detachment of a corporal and thirty-six men very fit for the business.

Q. How does this apply to the cause that we are to try?

A. I wish to explain the manner and method how they were to be manned.

Q. Having the command of these thirty-six men, did you dispose of any of them immediately?

A. I had mounted two carronades to act as field pieces. I kept these men at it, that in case an enemy landed we might meet them in the field; the battery was so connected, that in ten or fifteen minutes we could have manned them from the different regiments. I could explain the manner in which these batteries were furnished with men.

Q. As it was impossible from the small number of artillery men to have a sufficiency to work the guns, how were the batteries to prevent the landing of an enemy, unless for the purpose of giving notice of a surprize?

A. The batteries would have been manned, many of them were manned by the serjeant's guard on the battery, the remainder would have been manned in less than ten minutes, the batteries are so nearly connected; it is very well known that no garrison and posts of artillery are sufficient to work the guns in that garrison; we always take from the regiments, and every soldier is an artillery man.

Q. Did you at any time receive orders from Colonel Cockburne for establishing night signals at the different posts where generally the artillery men

were planted to give an alarm of the approach of the enemy?

A. I never received any such orders from Colonel Cockburne.

Q. If boats or canoes had been stationed in the night at the entrance of Jenkins's Bay, and been constantly rowing from one side of the bay to the other, could the enemy have approached the bay without their knowing it?

A. I know of no boats belonging to the island in regard to canoes.

Q. I ask you a positive question.

A. They certainly must have seen the enemy, but it would have been some hours before they could have given information to the garrison, as it was so far distant, and the current run so strong to leeward; the canoes are generally rowed by two men, I believe.

Q. Was there any strong post between Fort George and Jenkins's Bay, close to which the enemy must necessarily march before they could reach Fort George?

A. The hills from Jenkins's Bay, the Signal Hills, form posts, very strong posts, they must pass between them; the road forms a gully,

Fifth Day's Proceedings.

Captain GARSTIN called in again.

Q. Did Colonel Cockburne ever ask your opinion, after you had taken at his request a survey of the island, on the most probable means of defending the difficult approaches to Fort George from Jenkins's Bay, Tumbledown Dick, or English Quarter, for the purpose of establishing a material defence to the island?

A. I do not recollect that he ever did.

Q. Did you ever visit in company with Colonel Cockburne, after you had made your report of the survey you have mentioned, any of the batteries, or any of the difficult approaches to Fort George, from the several practicable landing-places?

A. Never.

Q. The enemy having effected a landing on the island, and forced the troops to retire within Fort George, how long do you believe the fort would have held out in the state it was on the day before the island was captured?

A. I never understood that it was intended the troops should retire to Fort George, it being a post

of

of no consequence, as it would not contain them; but if they had retired to Fort George, I suppose we could have held out about ten minutes; the fort was in no state of defence, being surrounded with houses.

Q. If there had been a night-post established at Signal Hill, would it not have been the means of alarming the garrison on the approach of the enemy?

A. I apprehend it might have been the means.

Q. Where was the approach of the enemy first discovered?

A. My first knowledge of an enemy being upon the island, was from the guard at Fort George firing.

Q. In what degree of repute was Mr. Rofs?

A. He was a merchant; I had no knowledge of him.

Q. Is he a respectable character, such as would command belief?

A. I understood he was a favourer of the Americans; we found him there as a merchant that traded with the Americans.

Q. Give a direct answer as to his general character and reputation?

A. Upon my word, if he had made his report to me, I should have paid great attention to it.

Q. Do you know of any further information respecting the attack of the enemy being communicated to Colonel Cockburne by Mr. Rofs subsequent to his letter?

A. I never knew of any information given by Mr. Rofs to Colonel Cockburne, but by that letter.

Q. Did Colonel Cockburne at any time express his intentions of reconnoitring the several posts with you?

A. I do not recollect that he did.

Q. Might not vessels have failed to the French islands, although not cleared from the port of St. Eustatia?

A. I am almost sure they did every day; they cleared for other ports, but it was the general opinion that they failed for the French islands.

Q. Do you know of any communication given by Colonel Cockburne, or any intimation of the attempt of the island's being meditated by the enemy to two field officers next in seniority of the 15th regiment.

A. I never heard of any.

Q. You have already said, that there was no particular orders given to the garrison from that intelligence; and on the other hand you have given an account of the garrison; I wish to ask you what you know of any extraordinary picquets, any additional sentries posted, any particular instructions gi-

ven to the signal men to be vigilant, or any other charge that might tend to excite particular alertness any time between that intelligence and the capture of the island?

A. The guards and picquets, I believe, remained as they were before the intelligence; I know of no orders given to the signal men but what I gave myself. I know it was Colonel Cockburne's intentions, as I mentioned yesterday, to post a captain at the other side of the island as soon as the guardhouse was ready to receive them; Major Henderson, I believe, was the captain that was to be posted. I know of nothing more than the intentions I have mentioned of sending a captain and subalterns, and a guard ready to receive him.

Q. Was there a very considerable surf at English Quarters, so as to make that ascent precarious?

A. At English Quarters there was a very little surf, a fine beach, much better landing than in the town at that time of the year.

Q. Was there any opposition made by the garrison till the enemy was discovered near Fort George, and what?

A. I must relate from hearsay, for I had it from the French officer; I could not be acquainted with what happened.

Q. Then you do not know?

A. No, not to my own knowledge.

Q. Was you acquainted with Mr. Neagle at St. Eustatia?

A. I was.

Q. What was his general character?

A. A man much supposed to be in the French interest.

Q. Do you know if there were any particular connections between Colonel Cockburne and him?

A. He lived in the same house with Colonel Cockburne, but I know of no particular connections.

Q. What was the nature of the country between English Quarter and the place where the captain's post was?

A. A flat, composed of pasture and canes.

Q. Accessible country?

A. Quite so.

Q. As the battery erected at English Quarters was of no use, if a surprize was attempted, what precautions were really taken near that quarter to prevent a surprize?

A. The battery was not finished at the surprize of the enemy.

Q. And no picquet was posted there to prevent a surprize?

A. No, the battery was not finished, and there was no picquet posted there.

Q. I meant

Q. I meant to put the battery out of the question, whether there was any picquet posted there or not.

A. There was not.

Q. If it was thought so very important to have a fort there, till that was effected, was there any other method taken to prevent a surprize?

A. No.

Q. What number of men will Fort St. George conveniently contain?

A. There was scarce room for my small detachment, which consisted of about thirty men.

Q. Was there any orders given of assembling any part of the garrison for sustaining Fort St. George?

A. I know of no other order than this of the 14th of May, 1781. In case of an alarm by day, a gun to be fired from Fort George, and a red flag to be hoisted on the Dutch church. The alarm post to be as follows: the flag companies to parade opposite to Fort George, the 13th regiment on the ground parade, and the 15th regiment in the drill field. The night alarm to be three guns fired from Fort George. I know of no other orders.

Q. Were not these companies to parade there by night as well as by day?

A. I suppose so, Sir.

Q. Under whose command was that?

A. In General Ogilvie's time.

Q. Do you think a surprize more likely to be effected by night, or very early in the morning, than by day?

A. By night, certainly, or in the morning early, than by day.

Q. To your knowledge were greater precautions taken to guard against it at night than by day from any orders that ever came to your knowledge?

A. I know of none.

Q. Was any alteration made after that in the orders or the alarm posts, after that order of the 15th of May?

A. I know of no alteration.

Q. Did you know that Mr. Neagle was sent by Colonel Cockburne with private instructions some time before the capture?

A. I never knew that he was sent by Colonel Cockburne.

Q. You said, that thirty belonging to the artillery could scarcely be quartered within the fort, I wish to know, supposing there were ramparts and banquetts, what number of troops the line of parapet would take sufficient to repel a sudden assault of the enemy?

A. There was no banquetts; there was a sort of a thing called a parapet, might have contained ninety or one hundred men, you could not call it a fort; indeed I never saw such a place in my life.

Q. What height was the parapet?

A. Some parts about two feet, and others three.

Q. Did you ever receive any orders, while you acted for Lieutenant-colonel Cockburne as assistant engineer, to make any repairs to the fort, and to raise the parapet?

A. I never did; it was not worth repairing; it was reported by the engineer before; it was sacrificing men to put them into the fort.

Colonel Cockburne. Q. Did General Vaughan or Ogilvie ever give orders for the repairing that fort?

A. Never; it was reported to them as a place not worth paying any attention to.

Q. How many batteries did you erect under my directions?

A. I completed one, almost finished a second, and repaired a third.

Q. Did I point out the ground to you myself for the best battery?

A. You did.

Q. Was there any canoes or boats belonging to the garrison?

A. I know of none belonging to government.

Q. If the enemy had attempted an embarkation at Tumbledown Dick, was the guard sufficient to give the proper alarm?

A. If the guards had fired the guns on the battery, the garrison must have been alarmed.

Q. Did you ever look upon that as an important post?

A. I never did.

Q. Do you recollect that Colonel Stopforth was ever present when I communicated to you the letter I received from Mr. Ross?

A. I do not recollect that Mr. Stopforth was present.

Q. Do you recollect that the Town-Major Bathie was present, or any other of the officers?

A. I do not, indeed.

Accuser. Q. If there were not new guns erected in the fort during the time that General Vaughan or General Ogilvie commanded, I forget which, in the room of some that were rendered unserviceable?

A. None, Sir, during the command of General Vaughan or General Ogilvie.

Q. Had any ships of war been stationed at St. Eustatia; would the commander of those ships been under the orders of Colonel Cockburne?

A. I cannot say what orders they might have received from their admiral or commander.

Q. According to the routine of the British service, do the land officers ever command the sea officers when on board their ships?

A. Certainly not.

Q. As commander of the fort, would you have

fired at any single ship that might have approached after night?

A. That depends upon circumstances.

Q. According to the custom of the British West-Indies, is the appearance or approach of a fleet of five vessels deemed a signal of alarm?

A. I believe not.

Q. Was there any place of arms on St. Eustatia at the time of the surprize?

A. I beg to know what Mr. Rogerfon means by a place of arms?

Q. I mean a place of arms that would be tenable at any time.

A. None to my knowledge.

Q. As an engineer who surveyed the island, do you think that its chief dependence consisted in keeping a good look out, and preventing a landing?

A. I am no engineer, but I believe the defence of the island depended on keeping a good look out.

Court. You acted as engineer.

A. I undertook that duty certainly; it is the duty of every officer to assist at those times.

Acuser. Q. Did you at any time after the surprize and capture of the island give Colonel Cockburne a writing, signed by you, for justifying Colonel Cockburne's proceedings?

A. I never did, Sir. In the course of my acquaintance with Colonel Cockburne there was not above two letters ever passed.

Court. You say the works of Fort George were not worth repairing, I wish to know your reasons why they were not worth repairing?

A. The face of the fort next the bay was constructed of such bad materials, and so close to the edge of the cliff, that the firing a morning gun, a four-pounder, with a small quantity of powder, tore the embrasures to pieces, and they were constantly tumbling down; that part of the fort next the church was commanded entirely by the steeple of the church. Indeed the whole fort was so, the men could not stand to their guns.

Q. Were the enemy in possession of the church?

A. The face next the town, where the draw-bridge was placed, was entirely commanded by the houses of the town, that the enemy might approach to the draw-bridge, or get within five yards, without our knowing they had been there in such a situation, and being so circumstanced it was the opinion of the engineer to report to the commander in chief, General Vaughan, that it was not worth repairing or paying an attention to: It was the opinion of every one, that if there was any fire in that fort, they must have been sacrificed; and that, in case of an alarm, there were only two of my men to remain in it, to issue out ammunition.

Q. What is the longest diameter of the fort?

A. About two hundred or two hundred and fifty yards.

Q. What is the length of the polygon, which is the point from one bastion to the other towards the church?

A. About fifty yards, I never paid attention to the sort or the dimensions of it, it could scarcely be called a fort.

Q. Within those dimensions so described, is not there space sufficient to alter the present figure of the fort, and produce a better defence?

A. I think not, I am sure not.

Q. The works of Fort George being in a ruinous condition, and not capable of any defence at all, would not certain advantages have arisen by levelling the whole works, and substituting the church and church-yard, into a respectable defence.

A. I think not.

Q. Were loop holes in the houses of the town?

A. No, Sir, the houses were constructed of wood.

Q. Are not you certain that loop holes can be made in wooden houses, if traverses had been made at the exterior openings of each street, and the houses loop holed towards the country each way from the town, and the troops retired within the town, would they not have been in a condition to have repelled the attack of the enemy?

A. I think not.

Q. If it is matter of opinion, I will not go any further, otherwise, I should desire to know what were his reasons, for it, as a professional man, I should be glad to know his reasons why they could not?

A. I have given my reasons for it, it is within an engineer's line to do that, from the situation of the street, the number of the Negroe huts at the extremities, and separated about in the different parts of the town, and the few troops in the garrison.

Q. You remember that my question was, that if all the troops were thrown into the town, then what defence do you make?

A. The few troops the garrison consisted of, even were they thrown into the town from the numerous avenues leading to it, I think they would not have been sufficient to man the fort in the manner that Colonel Dixon has mentioned to the Court.

Q. The Negroe huts being all level to the ground quite round the town with the artillery, the guns placed in different parts, as a good commander, and an intelligent artillery officer would plant them, what increase of defence would be given in the mode, I have now set forth?

A. Under these circumstances, I think we might have a very good stand against an enemy.

Q. To your knowledge what did the parties of the enemy consist of.

A. From

A. From the information I received from Count Dillon, their advanced picquet consisted of four hundred men.

Q. You say the houses were constructed of wood, did they stand contiguous one another?

A. In some streets they did, and in others they were separate.

Q. Do you think that if the enemy had set fire to a few of those houses, it would not have burned down the town?

A. Had they set fire to the town to the windward it certainly must, had there been the least wind.

Q. This is only a question of explanation, is there any guardhouse, or any thing of that sort, to the east of the town?

A. No, Sir, there might have been regimental guards, as to that plan on the table, I just drew out to give some small information to the Court, it is not regular by any means, it is only from my recollection and memory.

Q. Then these are the Negroe huts that have been mentioned by Colonel Dixon?

A. Yes, Sir.

Lieutenant BATHE the Town Major called in again.

Accuser. Q. With respect to the strength of the garrison I wish to ask Mr. Bathe, to ascertain the strength of the garrison on the day of the surrender?

A. That is a copy of the return given, six hundred and twenty rank and file.

Court. Q. Fit for duty.

A. No, Sir, out of that number one hundred and nine sick and lame including the artillery.

Accuser. Q. Were there any Negroes assisted at the artillery guns exclusive of that number?

A. I know of none.

Court. Q. Of the five hundred and nine fit for duty how many were there within the town and garrison at the time of the surrender?

A. All the men I suppose fit for duty.

Q. Did you ever hear the force of the enemy at the time of their landing?

A. I heard different reports.

Q. In general what was believed to be the force?

A. I believe it was said between three and four hundred.

Q. How many Negroes were computed to be on the island?

A. Never heard, I dare say there was five or six hundred, but I do not know any exact number.

Q. There might be that number?

A. I dare say, there might be four or five hundred, I am not sure.

Q. In the number of the guards that you mentioned, do you mean the captain's-guard, the picquet.

A. No, Sir.

Q. Exclusive of them?

A. The whole guard of the garrison are included in the number except Tumbledown Dick, which were a detachment on weekly duty.

Colonel Cockburne. Q. Are not servants, taylors, artificers, pioners, &c. included in these numbers, which never did any duty?

A. Yes.

Court. Q. Do the taylors do any duty?

A. No.

Q. Because I find an order in this book, that the taylors shall be employed, and the necessary work that used to be done by taylors shall be done by women.

A. I know in general we always employ our taylors, all soldiers would have been employed against the enemy.

Accuser. Q. Did not Colonel Cockburne impress a number of Negroes to work at the batteries, and other government service?

A. I have heard so.

Court. Here is an order of the 11th of April, where it says, the commanding officer must request, that the officers commanding companies, as they cannot allow the taylors to work at present, will make their women do what is necessary in waistcoats and breeches, and if they refuse, they must report them to the commanding officer, who will order them off the island; this is so far back as the 13th of April, and this shews that the taylors were employed.

Colonel Cockburne. You will please to observe that is a regimental order of the 15th regiment only.

Court. Q. Were the taylors ever employed at work from the date of that order till the surrender of the island?

A. When we wanted them, we used to employ them at times, when they could be spared.

Q. What orders were given to the detachment at Tumbledown Dick?

A. There was of late no order at all given, they were to post as sentries, and take charge of a number of things, that were laying about the fort.

Q. To make signals?

A. The signals were not to be made there, they were to be made upon a high hill.

Q. Was not that sentry posted there for the purpose of keeping a look out?

A. I should think so.

Q. Could that sentry observe an enemy landing at Jenkins's Bay?

A. From

A. From the nature of the ground I think not?
 Q. What was the distance from Amsterdam Fort to the parade?

A. I suppose about four or five hundred yards.

Q. Was there any guard at Townsend's Battery?

A. I never heard of such a battery.

Q. At lower Amsterdam Fort was there a guard?

A. I know but of one fort called Amsterdam Fort, I know of but one guard.

Q. Were the four pieces of cannon upon it?

A. I do not know.

Colonel Cockburne. Mr. Bathe forgets that General Vaughan had new christened the batteries, he called it Fort George, it was Fort Orange before.

Q. Was there any guard at Orange Fort?

A. Oh yes! that was the principal fort, there was a battery of twenty-six guns.

Q. Was you ever at Tumbledown Dick?

A. I was.

Q. Did you ever see or hear of the road that leads to Jenkins's Bay?

A. I know nothing at all of it, I know of no road but the road to Tumbledown Dick.

Q. Do you go round Signal House to Tumbledown Dick.

A. Yes.

Q. In coming the road leading to Tumbledown Dick, are you obliged to pass any road or post, or is the parade open at any part of it?

A. It is quite open at any part of it.

Q. Coming from Tumbledown Dick, does the road of necessity lead to this guard, or can it be passed over any part of it.

A. The road lays within two hundred yards of the guard, you can come to and from any quarter, except towards the lower town.

Q. The question arose from seeing a battery in this plan, and I thought I heard you say, there was a guard at that battery?

A. There were two or three guards at the coast.

Acufsr. I have now finished this part of the charge, and submit to the consideration of the Court, whether the letters, that Major Fisher is to authenticate, may be read now or not; because they are dated previous to the capture.

Judge Advocate. You mean some of those papers that came from the Secretary of State's office.

Acufsr. There are only two that I shall trouble the Court with at present.

Colonel Cockburne. I beg he may be asked to state to the Court the point of view which he has in having those letters read.

Acufsr. One letter is dated November the 17th, 1781, from Colonel Cockburne to General Christie, wherein Colonel Cockburne mentions, that he had

received intelligence of the intentions of the enemy, but that he was determined not to be caught in sleep.—Another letter is dated the 24th of November, with similar repetitions, that he was well acquainted with the enemy's proceedings, but he was determined not to be caught napping: that he had erected batteries in every bay and creek that was accessible; and had sent small detachments through the island.

Judge Advocate. Q. Have you any objection, Colonel Cockburne?

Colonel Cockburne. None in the world, I will acknowledge all my transactions; I admit these are real copies of my letters; there are letters transmitted from Major General Christie to the Secretary of State, which I hope I shall be indulged in reading when I come upon my defence.

Judge Advocate. Letters properly proved, or admitted, will certainly be received.

(The letter of Colonel Cockburne to Mr. Christie, dated the 12th of November, 1781, read.)

St. Eustatius, 12th of November, 1781.

“ S I R,

“ SINCE I had the honor of receiving your letter of the 30th of September, no opportunities have offered by Barbadoes but the present one, which is rather precarious, as she is but a common brig; and consequently there were no opportunities that a private letter might have reached Barbadoes, as they must be sent at a venture to the other islands. Although the want of abilities you may find in me, yet I assure you, Sir, you will never find remissness or neglect; notwithstanding the navy having completely stripped this place, and have not left me even a canoe. I do not implicitly put faith in every word I hear, yet I shall take care not to be caught asleep; for a landing once established must bring on a surrender; I have accordingly caused batteries to be erected in all accessible places; the last of these will be finished this week, and I have dispatched small detachments to prevent a surprize. To the abilities and application of Captain Gaslin I am greatly indebted, as he very ably undertook the office of engineer. I have had some private information that the designs of the enemy are on this island, which I do not believe to be true, as they would get so very little by the conquest. I tremble, Sir, for our friends in America; may God deliver them, and send them success.

“ I am, Sir, &c. &c.”

(The letter of Colonel Cockburne to Mr. Christie, dated the 24th of November, 1781, read.)

St. Eustatius,

St. Eustatius, Nov. 24, 1781.

“ S I R,

“ I wrote to you on the 12th instant, by a brig that was to call at Barbadoes, but whether she did or not I cannot tell. The purport of my letter was, that from repeated informations of the preparations making by the enemy at Martinique, I was determined not to be caught napping; for which purpose I have caused batteries to be erected in all accessible places; the last of these batteries is just finished, and is the cheapest to government of any that ever was made, a few materials and artificers are the only expence. I am much indebted to the abilities and application of Captain Garstin, who very ably undertook the office of engineer.

“ I am, &c. &c.”

Major FISHER *sworn.*

Accuser. Q. Was you secretary to General Christie, the commander in chief in the West Indies, in the year 1781?

A. I was.

Q. Do you know that General Christie sent intelligence to Colonel Cockburne of the enemy's designs upon St. Eustatia, and at what time?

A. I cannot charge my memory with that.

Major HENDERSON, of the 13th regiment, called.

Accuser. I beg that the order of the 5th of May, respecting the signals, may be read.

(The order read.)

Accuser. Q. I beg to ask Major Henderson, as an officer of the 13th regiment, if any orders were ever issued for an officer with the company that was quartered in the neighbourhood of Amsterdam post, to defend that post on all occasions?

A. I recollect no such order.

Q. Was the night previous to the capture of the island of St. Eustatia dark or moon-light?

A. A very fine moon-light night.

Q. Did the enemy arrive at the garrison before any alarm was given, and at what time in the morning?

A. There was no alarm that morning, and they arrived about six o'clock, from what I understood. I was in my quarters, I had not been out much, I had been indisposed two or three days before this.

Q. Do you understand that Colonel Cockburne was riding out in the road on the skirts of the garrison, on the south side, when he first saw the enemy's

frigate, as he mentions in his letter of the 27th of November?

Court. We have no such letter before us.

Accuser. The letter is dated the 27th of November, from Colonel Cockburne to General Christie, the day after the surprize.

(The letter dated the 27th of November, shewn to Colonel Cockburne, and admitted by him.)

Court. What time did the French take possession of the fort?

A. Between six and seven in the morning. Captain Garstin was in the fort the whole time; he knows better than I do.

Q. There is about fourteen hours day?

A. Twelve or thirteen; the morning gun is generally fired a little before six in the morning.

(The letter read, dated the 27th of November, 1781, from Colonel Cockburne to General Christie.)

St. Eustatius, 27th November, 1781.

“ S I R,

“ I HAVE the mortification to acquaint you of the surrender of this island yesterday morning, to the Marquis De Bouillé. The following circumstances I have learned from himself, and the officers under him.

“ The armament, consisting of three frigates, one sloop of war, and four small vessels, having about 1400 troops on board, were twelve days on their passage from Martinique, having sailed north about, to avoid being discovered by our islands. On Sunday evening, the 25th, they made the windward of St. Bartholomew and St. Martin's, and about eight o'clock that night pushed forward for this island, intending to make their descent in a place called Jenkins's Bay, which they found altogether impracticable from the rocks and shoals; about eleven at night they drove a little to the left of this bay, under a rocky steep hill, where they pushed their boats forward to land, in which attempt four of them were dashed to pieces, and some lives lost. The men of those boats had no alternative but to attempt the hill, their retreat being cut off. The difficulties they had to encounter were great; mounting slowly up, holding by stones one after the other, whilst others applied ladders.

“ From eleven at night till after six in the morning they were employed in scrambling up the hill, and marching through the defile of the mountain, their numbers about four hundred.

“ According to my usual custom, I got up on Monday morning at gun-firing, mounted my horse,

" horse, and rode to the south of the island; stopping to look around me, I saw two large vessels just clearing the north point of the island, opposite Saba. Apprehending those to be enemies, I instantly turned my horse about, and galloped back, ordering the troops to get under arms. As I passed on my way I heard a few popping shots, which proved to be a body of the enemy, under Comte Dillon, who had fired upon a few recruits at the drill. I made towards the place where I heard the firing, not a man with me, and there found another body of the enemy; upon which I turned about to try to get some men together, but in vain, the enemy having taken possession of the fort, and many of the quarters of the soldiers, which were greatly dispersed.

" A public enquiry into this affair will, I hope, exculpate me from every shadow of neglect or inattention. There was not a place in any degree accessible throughout the whole island that I did not fortify, in order to prevent a surprize. The officers of the garrison can testify my vigilance and attentions. The Marquis De Bouillé himself has generally declared, that he knew every place was fortified, and that he had nothing for it but secrecy, and to make his attempt in a difficult place.

" You may think it strange, Sir, that during the whole night not even a Negroe brought me intelligence: a strong proof of the treachery of the inhabitants, few of whom I have found honest, except the natural-born subjects of the king.

" The enemy were well piloted from Martinique, both by white persons and Negroes, who had been inhabitants here.

" Far from reflecting in the least upon the Royal navy, I must beg leave to observe, that since the fleet sailed hence the 1st of August, I was not left so much as a canoe either for defence or convenience, though the situation of this island, above all others, demanded a vessel, and I was told I should have one. Had one of those sloops of war, now cruising off St. Thomas's for American vessels, been stationed here, the island would have been safe, as I only wanted a very short notice. But no doubt the officer commanding that department is the better judge; I only offer an opinion founded on facts.

" In justice to the Marquis De Bouillé I must declare, that he has acted with that generosity and politeness that has ever marked his character towards the English. I am much indebted to him for his particular kindness to me, as well as to all the officers in general, having allowed each of them to go where they please upon their parole. The men are sent to Martinique, to be transported from thence to France.

" However conscious of my own innocence, I look upon this to be the heaviest misfortune of my life. My feelings, as an officer, are great, knowing well that the world in general too often judges of the conduct of an officer by caprice or common report, rather than by the merits of facts.

" I have the honour to be, &c.

J. A. COCKBURNE.

Lieut. Colonel 35th regt. of foot."

*Brigadier-General Christie,
commanding in chief, &c. Barbadoes.*

Accuser. I beg leave now to ask him the last question.

A. I did, Sir.

Q. Do you know that Colonel Cockburne was taking his usual morning ride, or engaged in any particular kind of duty?

A. I understand he was taking his usual morning ride.

Q. Do you know of any other officer having discovered the approach of the enemy earlier than this?

A. No.

Q. Do you understand that Colonel Cockburne immediately returned home on discovering the enemy's frigates?

A. I understood that he immediately rode back towards his own house.

Q. Must he on his return home pass by any officers quarters, or soldiers barracks, how many, and how near?

A. If he returned directly home in the natural course, as his quarters were in the principal street in Eustatia, and it was almost a continued line from his house to the end of the street, he must pass by Ensign Watson's barracks of the 15th, or his quarters; he was quartered upon an inhabitant, one Mr. Haggerdale; he passed Lieutenant Bowler's quarters also, of the 15th; and he passed the quarters of a Mr. Gordon: I don't know whether he can be looked upon as an officer, but he acted in a department under Colonel Cockburne, in a quarter-master general's line. He passed Captain Johnson, of the 13th regiment; and he passed the barracks of Colonel Headhouse's company; and he passed a barrack with a part of Captain Scott's company in it.

Q. Do not you recollect a barrack that a company of the 15th regiment was quartered in, very near the road immediately fronting the street, a little distance from the road?

A. Perfectly well.

Q. How near did Colonel Cockburne pass to that barrack, and to the other quarters?

A. The barracks of the 15th regiment was not in sight

fight of Colonel Cockburne, but he passed very near to those I have already mentioned.

Q. Do you recollect within how many yards?

A. If he rode in the middle of the road he could not be more than two or three yards at the utmost.

Q. Do you recollect that Colonel Cockburne passed any guards in getting to his house?

A. He passed a barrack guard of the 13th, and the barrack guard of the 15th regiment.

Q. I mean from the place he turned round on horseback to his own door?

A. Then you include the fort.

Q. No, I exclude the fort, was there any guard at his own home?

A. Yes.

Q. Was the Dutch church in the street through which Colonel Cockburne must necessarily have passed on his return home?

A. The Dutch church was in the street.

Q. Did you ever hear that Colonel Cockburne gave any orders to any officer or man to raise the alarm signal upon the Dutch church?

A. I never heard of any.

Q. Was not the barrack guard of the 13th regiment immediately on the spot at the Dutch church, to execute any orders Colonel Cockburne might have thought proper to have given them?

A. Yes.

Q. Was the alarm signal raised the morning of the surprize on the Dutch church?

A. I believe not.

Q. Must Colonel Cockburne, if he returned directly to the head quarters at his own house, have passed by the fort?

A. Yes.

Q. Did you ever hear that Colonel Cockburne gave any orders to fire the alarm guns at the port?

A. I never heard of any such order.

Q. Was the alarm gun fired in the port?

A. I do not recollect to have heard any gun fired that morning.

Q. Would you have heard it if it had been fired?

A. Most undoubtedly; but I should not be able to distinguish an alarm gun from any other gun.

Q. Do you think that if the signals of alarm had been given according to the standing orders, that the officers and men would not have immediately repaired to their respective alarm posts?

A. Most undoubtedly.

Q. What was the distance from the place where Colonel Cockburne was supposed to have seen the frigates, to his own house?

A. I cannot ascertain; I think it might be a thousand yards, more or less.

Q. Did you ever hear when and where Colonel Cockburne was made prisoner?

A. I understood Colonel Cockburne was taken prisoner at or near his own door.

Q. What was the number of the standing guards of Colonel Cockburne's house?

A. A serjeant, corporal, and three privates.

Q. Did the guard at Colonel Cockburne's house make any resistance that you ever heard of?

A. I never heard they did.

Q. Did you ever hear Colonel Cockburne give any orders in passing by the fort to raise the draw-bridges, or did he attempt to throw any additional men into the fort?

A. I never heard he did either the one or the other.

Q. Please to inform the Court of the companies that were quartered near the fort, and might have been thrown into the fort very conveniently?

A. Colonel Headhouse's company was quartered almost facing the draw-bridge, likewise the half of Captain Scott's company were almost facing the fort, and Captain Johnson's company.

Q. What were the strength of those companies?

A. Colonel Headhouse's company 57 rank and file, I am sure there is no more than a man above what I have mentioned, Captain Scott's company, 54 rank and file, exclusive of the serjeants, there might be 20 of that company, and Captain Johnson's were 57 rank and file.

Q. Did the enemy in the road they came, cut off a great part of the garrison, without passing by either guard or sentry?

A. Yes, Sir.

Q. Did you ever hear how many troops the Marquis de Bouillie had with him in the town, the morning of the surprize in the garrison?

A. I was informed by the French officers, that he had about 400 men rank and file.

Q. Did you understand that these were all that were landed at that time?

A. I understood he detached troops to take possession of Tumbledown Dick, and he also detached troops to take possession of the Signal House, the remainder he took into the town with him.

Judge Advocate. Q. Those were exclusive of these?

A. I should apprehend so.

Accuser. Q. Was there any resistance made by any part of the garrison, after the commandant was taken prisoner, and what resistance?

A. There was a partial resistance, but whether it was before or after I cannot say.

Q. Explain what you mean by a partial resistance?

A. The serjeants in the barrack of the 15th regiment, they were alarmed, and I understood that the serjeant gave the French one fire at the draw-bridge in the fort, the serjeant there I suppose being alarmed,

he fired his musquet, and the serjeant of the barrack guard of the 13th, withdrew his guard within the church wall, when they surrounded the churchyard, and also gave one fire, that was all the resistance I ever heard of.

Q. Did it appear to you, from the whole proceedings of Colonel Cockburne during his command, but particularly in the last month of his command, "that he acted as an able and vigilant officer?"

A. I can point out no particular time, Colonel Cockburne never appeared to me, either prior, or subsequent to the time alluded to, or during his whole command, active and vigilant, I very seldom saw Colonel Cockburne, excepting at his own house.

Q. Did you go into the fort immediately after the enemy had taken possession of it?

A. I was in it that morning, I believe I went into it between ten and eleven, I did not go in out of wanton curiosity.

Q. In what situation did the late garrison appear to be?

A. It is not really in my power to describe the miserable situation that I saw them in, I never in my life saw such heavy distresses and misfortunes painted in men's countenances, as I saw that morning; poor fellows! they were quite distracted, it is shocking to think of, they tore the cockades out of their hats, their lapels all open, and unhooked their skirts; and disfigured themselves as much as possible, there was a terrible piece of work.

Q. When the soldiers complained to you, what did they say?

A. They were in a state of distraction really, some reviled, some reproached, there was hardly any thing to be collected from it, they all lamented their heavy misfortune that had so lately fallen upon them.

Q. Repeat the words that were made use of?

A. It was in general terms, I do not recollect the words.

Court. Q. Who did they revile, their officers in general?

A. Oh! no, no, Sir, I never heard any reproach upon an officer, they directed all their reproach that I heard to Colonel Cockburne, they could reproach nobody else.

Accuser. Q. As an officer of experience, in your opinion did Colonel Cockburne shamefully abandon and give up the garrison, posts, and troops, that were under under his command?

Judge Advocate. I mean to submit this question to the Court, it is a question that should not be asked hastily.

Court. It is a part of the charge.

The Court cleared.

The Court resumed.

Judge Advocate. The Court have formed to themselves in their own minds, some general questions which they mean to ask at the conclusion of this evidence, if they think it proper; but this question being a very pointed strong question, and matter of opinion, the Court are of opinion it should not be put.

Cross examined by Colonel COCKBURNE.

Q. As Mr. Henderson confesses that he was in his chamber all that morning of the surprize, how does he know what road I was riding; I hope the Court will not receive opinions against me as evidence.

A. I had this information from Captain Freeland, of the 13th regiment.

Accuser. I will call him to ascertain the spot Colonel Cockburne was at, when he turned his horse.

Colonel Cockburne. Q. You declare you never looked upon me as an active and vigilant officer, and that you seldom saw me but at my own house, I beg to know what part of my conduct appeared to you in that reprehensible light?

A. I had very little communication or connection with Colonel Cockburne, except in delivering my report to him, and I seldom saw him but passing his door.

Colonel Cockburne. Q. Did you ever see me on the head of the garrison, upon the grand parade, and how often?

A. Two or three several times, when punishments were inflicted.

Q. Did I ever reprimand you for coming late to that parade contrary to orders?

A. Through Colonel Headhouse you did, I will explain that inatter; the public orders were, that the garrison should assemble, I think at five in the afternoon, Captain Freeman and I were in the mess together, and I repaired to the parade as near as my watch would certify the time; I was too late because the punishments had began; I remonstrated to you afterwards of the hardship, because I had nothing to go by but a bad going watch; I suppose my being absent from that parade that afternoon, could not have exceeded four minutes, and I was publicly reprehended by Colonel Headhouse, in consequence of Colonel Cockburne's Orders; that was the circumstance I believe, but I refer it to Colonel Cockburne himself.

Colonel Cockburne. Q. As you say you seldom came to my house but to deliver in your report, I should be glad to ask you, if ever you came to me on any occasion to remark on the regiment you was in, as to discipline and conduct, and particularly remarking, that you had been president of a regimental court martial that day, to try twenty prisoners?

A. I never

A. I never waited on Colonel Cockburne with that intention, I mentioned before in my evidence, that a conversation upon my carrying in my report in the afternoon, frequently took place between Colonel Cockburne and me, relative to little matters concerning the garrison, but I expressly deny ever waiting on him with that intention.

Judge Advocate. The question is, whether when you was there it might come out.

A. It possibly might, though there were not more bad men in the 13th regiment, than in any other regiment, those scenes of debauchery that existed at that time in the regiment, proceeded from some very bad men.

Colonel Cockburne. Q. Did you ever point out to any of your brother officers, after the 26th of November, any part of my conduct that you did not like?

A. Do you mean as a military man, or as a private gentleman.

Q. As an officer?

A. I never pointed out any part of Colonel Cockburne's conduct that I disliked, I only said, I did not look upon him to be an alert officer, I said nothing more to accuse your conduct, and I deny ever reflecting on Colonel Cockburne's conduct as an officer, except in this affair.

Colonel Cockburne. I never heard that you did.

A. Nor I have no reason now.

Court. Q. Did you ever hear that Colonel Cockburne was diligent in renewing the posts, or in employing that early time in a morning for military purposes?

A. I always understood that Colonel Cockburne's riding in a morning, was either by a small distance where there were several small batteries erected to the southward; I do not recollect I ever saw Colonel Cockburne in a morning, when he rode out.

Court. Q. From the time that Colonel Cockburne received that information with respect to the inhabitants of the French, was it generally spoken of?

No answer.

Q. Could Colonel Cockburne have returned to the southward of the town, without passing by a house where the troops were quartered?

A. Not through the town I do not apprehend he could, he might have taken a circuit through what they call pasture, by a direct road; there are three streets there, I think officers were quartered in all the streets, I do not know any street where officers were not quartered; it is a direct line from the place as I was informed by Captain Freeman that he turned about; I had that company from the 24th of August to the 26th of November.

Q. Had you any orders relative to your coming to your destination?

A. No orders at all.

Q. Did you ever hear that it was particularly to be attended to as a post in case of an alarm, that it was to be considered as a post, to be maintained as a post?

A. I have been informed, that General Ogilvie looked upon that post to be a post of consequence, but I never had information from General Ogilvie, nor I never had any order relative to that post; I do not recollect to have seen any order; it was hearsay matter: In case of an alarm, my company would have certainly repaired to the regimental alarm, had there been any order relative to that post, it would have affected me as well as my company.

Q. As captain of the company, did you ever hear that Captain Garstin, the commanding officer of the artillery, had the command over the company, to employ the artillery to work the guns if it should be necessary, in case of an alarm?

A. Captain Garstin told me that he had the authority from General Ogilvie, but as that particular parade belonged to General Ogilvie, I never heard any thing of the matter till after he died.

Q. Whether you know any fact or circumstance distinct from those already mentioned in your evidence, which may guide or assist the Court in forming their judgement, whether the garrison, posts, and troops, under Colonel Cockburne's command, were shamefully abandoned?

A. I do not.

Accuser. I should be very happy to know, whether all the letters I may call for, will be admitted?

Judge Advocate. It is impossible to know that until we know what the papers are.

Accuser. I wish to have Major Fisher remain to be called up again.

Sixth Day's Proceedings.

Accuser. I have with the assistance of Mr. Mackenzie, prepared a kind of a sketch of the upper town, the streets, and the men's quarters, if Colonel Cockburne has no objection?

Colonel Cockburne. I have no objection to any thing.

Judge Advocate. Do not admit any thing hastily. *Colonel Cockburne.* I believe Captain Garstin will be a better judge, I will refer it to him.

Accuser. It is only done entirely from memory.

Captain GARSTIN called.

Q. Look at that, and see whether it is accurate.

M

Accuser.

Accuser. I mean the streets, here is the parade and the barracks, and quarters of the soldiers, they are as correct as my memory and Mr Mackenzie's can furnish us.

Captain Garstin. It is a faint resemblance of it, but not correct, it is something like the place.

Court. There is no material difference.

A. No, Sir.

Q. Are any of the quarters misplaced?

A. I was not acquainted with the quarters of all the officers, the streets are something like.

Court. Then it is enough to give the Court a general idea of the place, but it is not to be considered as evidence.

Accuser. I cannot examine evidence as to soldiers quarters.

Court. If it is to be considered as evidence, you must.

Accuser. I think it will save a great deal of time to the Court, and it will not be so clearly described.

Judge Advocate. If any thing material appears, it makes a part of the report to the king.

Accuser. It will give a general idea of the place, that is all, I do not wish to make it more evidence, than the other map upon the table.

Captain MACKENZIE called.

Captain Mackenzie. This map is not correct as to the scale, but the position of the barracks, and the streets, and the officers quarters, but not as to measurement.

Colonel Cockburne. Q. Did you ever take a survey upon the spot?

A. I never did Sir, but my memory furnishes me with a very particular state of the place, it is strong on my memory.

Judge Advocate to Colonel Cockburne. If you wish to object, the Court do not mean to receive it.

Colonel Cockburne. I should suppose that such a sketch will not be received as evidence.

Judge Advocate. Then you may put it into the hands of any body that was on the spot, and he can judge whether it is accurate or not: did Mr. Neagle return to the island of St. Eustatius, after his supposed secret voyage to America?

A. He returned from his first voyage: the first time he went, I wrote by him; the second time he did not return to the island.

Judge Advocate. This is a matter that may be of importance, I wish Captain Mackenzie would inform the Court, what knowledge he had of his going twice.

A. The first time of his going that I know of, he carried a letter, after that he returned to the island, I cannot recollect the particular time of the

second, I am not perfectly sure of his second return, it was previous to the capture, I am sure of that, I left the island soon after the capture.

Judge Advocate. Inform the Court, how you knew of his going the second time.

A. I cannot charge my memory of it, and how it came to my knowledge, I cannot recollect, such a thing is in my head, but the first time I know by my writing.

Q. Was the knowledge you had of his going the second time previous to the capture?

A. I fancy so Sir, for I have never spoke of it since the capture.

Court. The last time that he went from the island, was it a matter of notoriety, or did he go privately, as he did the first time?

A. Privately I believe, I cannot be correct, there is such a thing in my head, but it is quite in idea.

Q. His first going was a month or two before the capture?

A. Yes.

Q. Do you remember how long he was absent the first time?

A. No.

Q. Do you remember seeing him after he returned the first time?

A. I think I do, I am sorry it is not strong in my memory, I then thought nothing of the circumstance.

Q. Do you remember what time you saw him last, before the capture of the island.

A. I do not.

Q. You are pretty sure you saw him, after his return the first time?

A. Yes, I am.

Court. Q. Upon what do you found your opinion that he went to Martinique, the second time he left the island?

A. I cannot be correct, only that such a thing is in my head.

The Court cleared.

The Court resumed.

No. opinion given by the Court:

Captain JOHN FREEMAN, of the 13th, sworn.

Accuser. Q. Where was you quartered the morning of the surprize of St. Eustatius?

A. Southward of the town.

Q. Did you see Colonel Cockburne riding out the morning of the surprize, on the southern side of the garrison?

A. I did.

Q. Please to describe to the Court, the place where Colonel Cockburne turned his horse round, to return to town, and how far did you see him?

A. I believe

A. I believe it might be between fifty and an hundred yards to the southward of the town, on the road.

Q. Perhaps he can point out the spot if he was to see the map.

A. I can.

Court. As there is no scale, you cannot ascertain the distance by that map.

Q. Was it near a particular battery?

A. Near to Lieutenant Scott's quarters.

Accuser. Q. Was it between the shore and Lieutenant Scott's quarters?

A. It was.

Accuser. Q. Do you know that Colonel Cockburne gave orders to any troops to get under arms, at the time of the surprize, after he turned his horse about, or did he try to get any men together?

A. I do not.

Q. Did Colonel Cockburne give any orders to collect any men together?

A. I do not know, I never saw any thing of Colonel Cockburne from that time, till I saw him in the fort a prisoner.

Judge Advocate. Q. And do you not by any other means, know that he endeavoured to collect the troops together?

A. I heard, it was only report, I heard that as he rode through the street he desired the soldiers to follow him.

Colonel Cockburne. Q. When you saw me turn my horse about, at what pace did I go?

A. As fast as your horse could gallop.

Q. Did you look out from your house at the time I turned my horse.

A. I did.

Q. Did you see any vessels at that time?

A. I did, I saw a frigate laying on the north part of the island.

Q. Did you hear any muster?

A. I did.

Q. Did I ride in that direction from whence you and the muster?

A. I imagine you did, I saw you going the way you came out of town.

Q. You say, you did not know, do you know that I did not give any orders for assembling troops?

A. I do not.

Q. During the time that you was on the island of St. Eustatius, did you ever know me remiss or inattentive to the service, or relaxed in discipline?

A. I always looked upon you Colonel Cockburne, to be a very attentive officer, as far as the duty of the garrison went.

Accuser. Q. What direction did Colonel Cockburne seem to go in?

A. He galloped back in that direction which led to Fort George.

Q. How often did you, during the time you was on the island, see Colonel Cockburne on the parade, and on what occasions?

A. I do not know that ever I saw him above once or twice walking along the parade.

Q. Was that on any particular occasion?

A. No, there was no particular duty at that time that I know of.

Q. How long was you on the island?

A. I came to the island of St. Eustatius on the 1st of September.

Q. Did you ever know Colonel Cockburne visit any one of the detached posts?

A. No, Sir.

Cross examined by Colonel COCKBURNE.

Q. Had not the 13th and 15th regiments separate parades on which they called their rolls?

A. They had Sir.

Q. When I ordered the garrison under arms upon the grand-parade, did I not attend myself?

A. I never recollect that the garrison was under arms, while I was upon the island.

Court. Q. Might not Colonel Cockburne have visited all and every one of the out-posts, without your knowing any thing of it?

A. Certainly Sir.

Q. Did you hear any drums beat to arms, soon after you saw Colonel Cockburne turn his horse about, and gallop towards the town in direction of the fort?

A. No, Sir.

Q. Whether Colonel Cockburne turned out the barrack-guard of the 13th, on his return, or did he order the garrison of Fort George under arms?

A. I do not know.

Q. At what distance was you from Colonel Cockburne, when you saw him turn his horse?

A. I suppose something near one hundred yards, I was in my own quarters drilling myself.

Q. Did you ever know any reason for the colonel's taking that sudden turn?

A. I imagine it was in consequence of the firing that he turned his horse, or seeing the frigate at the north end of the island.

Q. You was too far off, to speak to the colonel, or to be spoken to by him?

A. Most certainly Sir.

Q. Did you see the frigate at the north end of the island, before you heard the firing or after?

A. Not till after.

Q. In what time after?

A. In

A. In about a minute, I could not see the frigate in the room where I was, I went into another room, which commanded the bay, where I saw the stern of the frigate, which was about a minute before I heard the firing.

Q. Did you hear the firing before you saw Colonel Cockburne turn his horse?

A. No, Sir, just after I heard the firing.

Q. Did you see Colonel Cockburne turn his horse at the firing, or before, or after?

A. It was after the firing.

Q. Did your quarters have a sight of any of the barracks, by which Colonel Cockburne passed on his return?

A. No, Sir, except Lieutenant Scott's, it was quartered clear of the town.

Q. One would naturally imagine, that the men in their barracks would have heard the firing as well Colonel Cockburne; my question is, I wish to know whether the firing reached Colonel Cockburne's, and whether it might not reach the men in their barracks?

A. I look upon it that Colonel Cockburne was on the outside.

Q. What distance were the outskirts of the town from Fort George, southward.

A. I suppose it might be one hundred and fifty, or two hundred yards, from Fort George to the end of the street.

Q. You imagine about two hundred yards?

A. Between two hundred and three hundred yards, I cannot particularly say the number of yards.

Q. What distance do you apprehend that the frigate was?

A. I imagine she was laying to, because her stern lay to the current.

Q. Was she in full view?

A. No, I only saw part of her stern.

Lieutenant LEWIS of the artillery sworn.

Accuser. Q. Was the night the enemy landed on St. Eustatius dark, or moon-light.

A. To the best of my recollection, it was a fine moon-light night.

Q. Was the signal, the alarm gun, or any great gun fired at Fort George, the morning before the surprize?

A. There was no signal, only the morning gun as usual.

Q. Was there any red flag, or any other signal displayed on the Dutch church, previous to the surprize?

A. I know of nothing previous to the surprize in the morning.

Q. Had any orders been given for making the signal of alarm by day, do you think they would have been instantly observed.

A. I do.

Q. Did you ever hear that any orders were given by Colonel Cockburne, to make the day signal, the morning of the surprize?

A. I did not.

Q. Did the enemy arrive at the garrison, without any alarm being given, and at what time?

A. I did not hear of any alarm at the time I first knew of their being in the garrison, or that they were on the island, which was after gun-firing.

Q. Supposing that Colonel Cockburne turned his horse, in order to return to his own house, on the spot between Lieutenant Scott's quarters and the sea-side on the road, what was the shortest rout, and what distance was it from thence to his own house?

A. The shortest rout was I think by the fort, it might be about half a mile or thereabouts.

Q. Did the Dutch church and Fort George lay in this rout?

A. They both lay in the road to head quarters.

Q. Did you understand that Colonel Cockburne passed by the fort, as he returned home that morning?

A. I have heard it in course of conversation, I did not know it of my own knowledge.

Q. Did you understand that Colonel Cockburne gave orders to raise the draw-bridge?

A. I did not hear that any such orders were given.

Q. Did Colonel Cockburne attempt to draw any additional troops into the fort?

Judge Advocate. Where was you?

A. Near a battery of five guns, a little distance from the fort beyond the head quarters, beyond the governor's house.

Q. Was the name of that battery Fort Vaughan?

A. Not to my knowledge.

Accuser. Q. Was there any resistance made by the garrison, and what resistance?

A. I heard that a guard of the 15th regiment fired some straggling shot, and that a serjeant of the guards was killed.

Q. Do you know Colonel Cockburne gave orders to any troops to get under arms at the time of the surprize, or that he tried to get any men together?

A. I did not hear of any such orders or attempt.

Q. Did you ever learn that Colonel Cockburne had formed any plan of defence after he was alarmed, and if he did, please to explain to the Court, what plan it was?

A. I could not hear it as Colonel Cockburne was a prisoner in the fort, when I was taken prisoner myself.

felt, I could not hear of any, it was impossible, I did not see him till I saw him prisoner.

Accuser. Q. Did you hear of any?

A. I did not.

Q. Was there any carronades in Fort George fit for service?

A. There were two mounted on field carriages?

Accuser. Q. Could Colonel Cockburne have alarmed the officer commanding, if he had passed the fort?

A. He could have done so by calling to the sentinels, there is a sentinel at the gate, at least the inside of the gate, the gate is open after gun-firing.

Q. Do you recollect a path fronting a part of the fort, leading to the grand parade?

A. There was a road led by the fort to the grand parade, and by Colonel Cockburne's house.

Q. Had these carronades loaded with grape shot been planted in the direction of that road, would they not in your opinion, have retarded the progress of the column of the enemy, which took Colonel Cockburne prisoner, and first entered the fort, and have given time for some of the troops to have themselves into the fort?

A. I did not understand that the same column that took Colonel Cockburne took the fort, though it was much about the same time, I understood that they were taken by different columns.

Q. Would they not have stopp'd the progress of any column that might have passed that way?

A. I think they might.

Q. What was the height of the ramparts in the fort, the bottom of the ditch on the outside?

A. About thirty feet.

Q. What was the general opinion of the island of St. Eustatius, on the surrendering the island?

A. I cannot give any other gentleman's opinion of this matter, there might be various opinions.

Q. I beg Mr. Lewis may have an opportunity of looking at the plan of the town, and give his opinion of it, whether it is like the place?

A. It gives an idea of the place.

Cross examined by Colonel COCKBURNE.

Q. Mr. Lewis says, he did not hear that I gave any orders to get troops under arms, I should be glad to ask him, do you know, I did not give any orders to get troops under arms, or to assemble the men together?

Judge Advocate. Q. Might it not have been done without your knowledge.

A. It might.

Colonel Cockburne. Q. Did you hear the fire of the musquetry that morning?

A. I heard a slight separate fire when the enemy took possession of that five gun battery, and at the same time a shouting.

Q. Were you made prisoner in your quarters by the enemy before or after that fire?

A. After.

Q. What did you do when you heard the firing?

A. I went out to repair to the fort from my quarters but was intercepted by part of the enemy in my way.

Q. The prosecutor insinuates that my sole intention of turning about my horse was to return to my house, I should be glad to ask Mr. Lewis, whether he knows that I returned to my house or even stopp'd at it?

A. I do not know that Colonel Cockburne stopp'd at his quarters till made prisoner.

Court. Q. Whether it was customary to let down the draw-bridge on the firing of the morning gun?

A. It was.

Q. Do you know whether the personal capture of Colonel Cockburne, or the taking of the fort was first.

A. I believe much about the same time, for the French officer told me that had not he intercepted Colonel Cockburne, he should have taken the fort himself; so I imagine it was about the same time, but I cannot speak with certainty.

Q. What troops were in the fort the morning of the capture?

A. None but the artillery and the guard, they had a guard either from the 13th or 15th, a sergeant's guard, I cannot positively say the number, but it was a sergeant's guard.

Q. Were the artillery all there?

A. No, some were out at the different batteries, there might have been about sixteen or eighteen artillery men in the fort, they were divided at some batteries a few of them.

Q. How long had the morning gun fired before you heard the muster?

A. About a quarter of an hour, I heard the morning gun fire, and immediately after a black man a servant of mine came in, and told me, that the enemy had landed, and then I heard a shouting.

Q. Was it customary for the private men in the artillery to get up at gun-firing in the morning?

A. It was, some of them were walking, as they told me afterwards, on the battery in the front part next the sea, they generally got up at gun-firing.

Q. What resistance was made by the fort?

A. It was not in the fort, I understood that the sentinel fired and he was shot through the body, that was at the fort gate when they were attempting to pull up the draw-bridge, they immediately fired through the gate.

Q. Where was Colonel Cockburne taken prisoner?

A. I understand from Captain O'Cormer who made him prisoner, that he clapt spurs to his horse and got away the first time, but they sent a straggling shot after him, and took him opposite the door to his own house.

Q. Were was Colonel Cockburne first seized?

A. Upon the exercising ground, the grand parade.

Q. Was it usual for a patrol to be sent from the guard round the ramparts of the fort, upon firing the morning gun, to see that every thing was safe before the draw-bridge was let down?

A. Not that I know of.

Q. Did you ever receive any orders during your service, under the command of Lieutenant-colonel Cockburne, to establish night signals in Fort George, or in any other part of the island, in case any alarm should be given of the enemy's approach?

A. Night signals were established at Fort George before Colonel Cockburne came to the command, but there was a twelve pound carronade carried up to the Signal Hill after Colonel Cockburne commanded.

Q. Whether there was any signals by sky rockets?

A. There was not.

Q. Could a gun fired from Signal Hill be heard at every part of the island?

A. It might have been heard at the fort, where it would have been repeated.

Q. Was there at any other time any other gun, but carronade ordered to be planted on the Signal Hill?

None, as that was light and only meant for a signal-gun, it might easily be got out.

Colonel Cockburne. Q. The grand parade where, you say, the enemy first seized my horse's bridle, was that the place, the fire of the musquetry first began?

A. I imagine not, as they were divided in so many different parts.

Q. Where was the the first fire of musquetry that you discovered, from what place, or was there any fire of musquetry upon that?

A. I did not see them, I only heard the fire of musquetry before I went out to the fort.

Q. Did you hear any musquetry from the grand parade?

A. The first might be upon the grand parade, as my quarters were very near; I did not see it.

Accuser. Q. What number of artillery were in the fort that were serviceable, exclusive of the carronade?

A. There was eighteen pounders and several six pounders, the number I do not know, they were all mounted towards the sea.

Q. Do you think Colonel Cockburne made the best defence of the island, so brave a garrison afforded him?

A. Colonel Cockburne could do nothing after he was taken, and what happened before I cannot say.

Court. That question should be considered before the answer is given, it must relate to what was done before the capture after he was taken he could do nothing.

The Court cleared.

The Court resumed.

Judge Advocate to witness. The Court have relieved your feelings, by directing me to acquaint you that they do not press the question upon you.

Court. Q. Was there any more than one road from the south road to the compass southward?

A. There was one that goes towards the southward, and another that goes by five-gun battery, and another that leads by those batteries, that lead by Colonel Cockburne's house to the fort.

Q. Are there more than those two roads?

A. There are only those two roads which form an angle.

Q. What guard was by the water side near the five-gun battery?

A. This five-gun battery was upon the hill, there was a serjeant's guard.

Q. Did that road lead close to that serjeant's guard?

A. Close to it where the guard was, was the back part of a house, the front part was a magazine, at least a room to hold the stores for the battery.

Q. Supposing the guard and sentry had been alert, how far could they have seen under the road the enemy came?

A. The road was between two thick hedges, as soon as the enemy came they might be seen by the sentries.

Q. Was there any guard from the east-side the fort, or near the road that leads to the back of the town?

A. There was none.

Q. Where was you informed that the firing began, the first firing of the musquet, or can you judge so as to answer where the firing began?

A. I cannot, the first I heard of it was pretty near my quarters, but I heard they fired in the street, they divided themselves in many different quarters.

Q. How long was it after you first heard the fire before you was taken?

A. About ten minutes.

Q. Was you taken at your own quarters?

A. I was dressing myself, I went out and was taken by a party, and carried to this five-gun battery, they

they had then got possession of it, a part had passed me and was gone to Amsterdam Fort, what is called the Bays, to take possession of them.

Serjeant-major WILLIAM ROBINSON sworn.

Accuser. Q. Do you recollect in what duty you was engaged, early in the morning of surprize and where?

A. At exercising the recruits in the drill-field.

Q. What happened to you when engaged in that duty and at what time?

A. A little before six in the morning, I was made prisoner in the same field.

Q. Did you see Colonel Cockburne taken prisoner, at what place and by whom?

A. I did see him taken prisoner at his own door, sitting upon his horse calling for his sword, by the party of the French that took me.

Q. Had Colonel Cockburne any side-arms at that time you saw him taken prisoner?

A. None.

Q. Was the guard at Colonel Cockburne's house near, when he was taken, and did he give them any orders to make resistance?

A. The guard was near, but I saw none of them appear, I heard no orders relating to it.

Q. Did Colonel Cockburne after he was taken prisoner give you any orders and what were they?

A. Colonel Cockburne after being taken prisoner gave me orders to go to Captain Garstin to acquaint him he would have no firing.

Q. Did you deliver those orders?

A. I did not; the fort was taken before I got there.

Court. Q. Captain Garstin was in the fort at that time?

A. Yes.

Accuser. Q. Do you know that Colonel Cockburne sent similar orders to any other post?

A. I know I went round to the different guards with the late Adjutant Smith, for them to deliver to the French.

Court. Q. By whose orders was that?

A. I do not know whose orders it was.

Cross examined by Colonel COCKBURNE.

Q. Pray, Sir, how many men had you at drill that morning under your command?

A. About thirty, to the best of my knowledge; it might be some more or less, I cannot speak to a certainty.

Q. Were you fired upon by the enemy, and what was the number of the enemy that fired?

A. The enemy that fired upon us might perhaps consist of fifty men.

Q. What did you do upon that?

A. I ordered the men to disperse.

Q. Did you make any resistance to the enemy?

A. We could make none; we had neither flints in our pieces, nor powder or ball.

Q. Had you bayonets?

A. Yes, we had.

Q. Did you ever advance with those bayonets upon the enemy on their scattered fire?

A. No, we did not.

Q. Did you see me before I was made prisoner by the enemy?

A. I saw you just as you turned the corner sitting on your horse.

Q. I ask you if you saw me before I was made prisoner by the enemy? you say you was made prisoner by the same party that took me prisoner, was I in the enemy's possession when I stopped at my door to call for my sword, or not?

A. You was not.

Q. Are you positive I was not.

A. Yes.

Q. Was there any one present when I delivered these orders, as you say, for Captain Garstin not to fire.

A. Not any that I saw, except the party of the French that took us prisoners.

Q. These orders, you say I gave you, was it before I called for my sword, or after?

A. After.

Q. As you say the fort was in possession of the enemy before you could reach Captain Garstin, did you ever mention those orders you say I gave, to any person at that time?

A. I did not.

Court. Q. How long was it after Colonel Cockburne was made prisoner that you ordered the guards to surrender?

A. It must be pretty well up to half an hour, or more may be.

Q. Upon what field were you exercising the men?

A. What is called the Grand Parade.

Q. Did the troops that were exercising ever fire on that ground?

A. No, we never fired on that ground.

Q. You say, the first time you saw Colonel Cockburne was when he was sitting upon his horse at his own door?

A. Upon my turning the corner I saw him sitting at his own door.

Q. And you are sure that the first time you saw Colonel Cockburne was sitting on his horse near his own door?

A. Yes.

Q. You heard him then calling for his sword?

A. Yes, calling out very loudly for a sword.

Q. How

Q. How long was it from the time you first saw him to the time he was taken.

A. He must be taken immediately after I saw him.

Q. You was then a prisoner yourself?

A. I was.

Q. Did an Irish officer command the enemy's detachment?

A. An Irish officer.

Q. Were there one or more officers?

A. Only one.

Q. Do you recollect his name?

A. It might be Connor; I think so, to the best of my knowledge.

Q. By being an Irish officer, he probably spoke English; did you hear him speak English?

A. Yes, the same as Englishmen do.

Q. Though you was a prisoner, yet it seems the commanding officer of the detachment consented to your going from his custody?

A. Yes, he permitted me to go.

Q. Did you hear any conversation that passed that obtained you leave to go from your imprisonment?

A. I did not.

Q. Because you, being a prisoner, would be naturally supposed to be kept there?

A. Yes, but they permitted me to go.

Q. After Colonel Cockburne was taken, did you hear any conversation pass between him and Captain Connor?

A. No.

Q. How long time elapsed before you was sent to Captain Garlin?

A. About two or three minutes.

Q. Did Captain Connor hear Colonel Cockburne give you these orders?

A. He certainly could not be off hearing it; he gave it loud enough for any one to hear it.

Q. And were you then suffered immediately after to go without interruption? Did you set off immediately?

A. Immediately, without interruption.

Q. Nobody with you?

A. Nobody but myself.

Q. No sentry?

A. None at all; and before I got to the fort, it was taken.

Q. Where did you see the late Adjutant Smith?

A. In the fort.

Q. The first time?

A. Yes.

Q. Where was it you took him with you?

A. Out of the fort, he took me with him to the different guards.

Q. Did you go into the fort?

A. Yes.

Q. Did Adjutant Smith go with you to Colonel

Cockburne, or did he of his own mere motion go with you round the guards, and say, you are not to fire?

A. He went round the different guards to tell them to surrender.

Q. Was Colonel Cockburne then in the fort?

A. He was.

Accuser. I shall have no farther occasion for the serjeant-major on the part of the prosecution, he is wanting at his regiment.

Colonel Cockburne. Probably I may have occasion for him, I should wish him to continue.

Lieutenant JOHN YOUNG, of the 13th regiment sworn.

Accuser. Q. Did you not command the scale-house guard at St. Eustatia on the morning of the surprize?

A. I did.

Q. Did you draw up your guard in order to defend your posts, and what ammunition had you?

A. I did; I had five or six rounds.

Q. Did you receive orders from Colonel Cockburne to surrender your post to the enemy, and who brought those orders?

A. Yes, by Adjutant Smith, of the 13th regiment.

Q. Do you recollect how late in the morning that happened?

A. According to the best of my recollection it was near seven.

Q. Do you know that Colonel Cockburne gave orders for any troops to get under arms at the time of the surprize, or that he tried to get any men together?

A. I do not.

Colonel Cockburne. Q. How could you know what orders I did give or did not give, as you were upon the guard in the lower town? What did you know of the matter, as you declare you was in the scale-house guard?

Court. After the question, put it, Might I not have given orders, and you know nothing of the matter?

A. Certainly, as my situation was very distant.

Q. Did you receive any orders that morning from me to defend that post?

A. No, Sir, I did not.

Court. Q. Not from him personally, but as from him.

A. No, Sir, nor through any other person from him.

Serjeant WILLIAM PONSONBY, of the 13th regiment, sworn.

Accuser. Q. Was you engaged in any duty the morning of the surprize?

A. I

A. I was 'n Amsterdam Fort barrack.
 Q. Did you prepare to defend your barrack as soon as you heard of an enemy?

A. I did.

Q. Did you receive any orders from Colonel Cockburne to surrender your post, and who delivered those orders?

A. Yes, by the late Adjutant Smith.

Q. At what time did he give you those orders?

A. About seven o'clock.

Court. Q. What number of men had you in your barracks at that time?

A. Just thirty.

Q. How long was that from the first surprize?

A. It was nigh upon an hour.

Q. Had you any standing orders at that fort upon any occasion?

A. None at all.

Q. How many rounds had you?

A. I had some ammunition that belonged to some sick and dead men, and I made it up to fourteen rounds a man.

Q. Did any officer join you?

A. No.

Q. Had you fired at all before you received orders to surrender.

A. No, I had not.

Q. Was it in the fort, or at the battery?

A. It was in the battery.

Cross examined by Colonel COCKBURNE.

Q. What company did you belong to at the time?

A. Major Henderfon's.

Q. Who were the subalterns of that company?

A. Ensign Rogerfon, there was no lieutenant.

Q. How long had that company been quartered in that situation?

A. It might have been there about three months.

Q. Did you ever know, or understand, that Brigadier Ogilvie had given orders, that a subaltern officer should constantly remain at that company?

A. Not to the best of my knowledge.

Q. Did you ever hear that any such orders were issued?

A. No.

Court. Q. Whether the enemy entering the town, came near that battery?

A. No, not within a mile of it.

Q. In case of an alarm the orders were, that you should repair to the alarm post, why did you not rather repair to the alarm post, than remain in the battery?

A. I did not hear any drum beat.

Q. Had you at any time directions, or orders,

that you might receive from any officer of artillery?

A. No.

Q. How long a time do you judge it to be, from the first alarm, till your men were collected?

A. About seven o'clock.

Q. Not sooner?

A. No.

Q. There was nothing then of that fort of alarm, which should have enabled you to repair to the alarm post?

A. None at all, I heard no drum beat, and before I could get to the alarm post, the garrison was taken.

Q. You say you heard no drum beat, nor alarm, why therefore did you put yourself in a posture of defence?

A. The corporal that was in the drill field exercising the recruits, came and told me of it.

Q. Why did you not then repair to the alarm posts, according to orders?

Q. By reason the fort as I had to pass, was within view of the alarm post.

Q. How do you know the enemy were in possession of that guard, did you attempt to go to the alarm post?

A. The corporal informed me that the French were on the island, and told me that he saw the guard taken.

Q. Was Ensign Rogerfon with his company that morning?

A. No.

Accuser. Q. Do you know when and where Adjutant Smith died?

A. No.

Q. Is it believed that the adjutant is dead?

A. Yes, it's understood so.

Seventh Day's Proceedings.

Judge Advocate. I have received a message respecting summoning a witness, that was to the next article of the charge, the court understood that the defence was to be made to this first article, that it was to be completed, I understand it so.

Colonel Cockburne. I should wish the whole of the proceedings should be quite finished before I come upon my defence.

Judge Advocate. I believe the Court thought that might operate to your advantage; do you still desire that that they may go on?

Colonel Cockburne. A. My witnesses are men of business, and their time is exceedingly precious.

Court. Q. Do you think that consideration should weigh with you, in the very critical situation you are in, because their time cannot be of such consequence to them, as them as this may be to you?

Colonel Cockburne. A. If the Court will indulge me then a few days, to answer the military charges against me, I shall be glad, but I really cannot have the men that I want, they are employed in business themselves.

Q. You wish for time to prepare yourself?

A. Allow me till Monday, supposing this part of the charge is finished to day, or to-morrow.

Accuser. It will be finished in an hour, the remainder of this charge.

Colonel Cockburne. I am perfectly convinced of the candour and indulgence of this honourable Court.

Captain GARSTIN called.

Q. Do you recollect that Mr. Neagle went more than once to Martinique, while the island was under the command of Colonel Cockburne?

A. I recollect his being absent twice from the island.

Q. Was he upon the island at the time of the capture?

A. Not to my knowledge.

Q. Explain the situation of the signal men, and how they were taken?

A. The signal men had orders to remain in the sentry box at the flag-staff, while they could distinguish objects at sea, they then had liberty to retire to their quarters, at a house about a hundred yards from the flag-staff; at gun-firing in the morning, which was the time fixed on for them to repair to the signal post: on Sunday night, the 25th of November, they retired to their quarters, and continued there till day break in the morning, at which time the owner of the house (an old lady) called them up desiring them to go to Signal Hill, for she thought she saw some soldiers there, and supposed they had an intention to steal some of her stock, the men accordingly went up, and were made prisoners by the enemy, who had been in possession of the post some time; I only mention this circumstance, to shew that the men were not taken 'till after day light, nor had betrayed their trust in the night, as is suggested in the letters of Colonel Cockburne: I wish to shew to the Court that the men were taken prisoners on their posts, and that they had not quitted their quarters during the night.

Judge Advocate. Q. This is the account you got by making the enquiry at the time?

A. Yes, Sir, I made it my business to enquire, I had it from the old lady and an officer.

Q. Do you understand whether the guns fired at that time?

A. Always at day-break, the day broke about a quarter past five; they had never quitted their quarters during the night.

Q. You mention the enemy had been some time in possession, how was this information received?

A. From a French officer, there was another officer made the same enquiry.

Accuser. Q. Could you discover the approach of the enemy, or any ships at sea, from the Signal Hills?

A. The house was on the side of the hill, they had no business there in the day time, their business was; to be at the flag-staff.

Q. Was the house much lower than the flag-staff under the hill?

A. Not a great deal lower, about one hundred yards from the flag-staff.

Q. Was not the signal men removed, a few days before the capture?

A. Yes, there was a very substantial reason.

Q. I have no objection to Captain Garstin's giving the reason in the least, what reason?

A. He had quitted his post, and I found him in the town, in the street, between nine and ten o'clock in the night, contrary to my orders.

Q. Did you live in Fort George?

A. I did.

Q. Do you recollect the manner in which the fort was taken, and describe to the Court how, and at what time?

A. By the enemy's rushing in at the gate in numbers, about a quarter before six in the morning.

Q. Had you any notice of it?

A. Not the smallest 'till I was surrounded.

Q. Supposing that Captain Henderfon's company had been attacked by General Ogilvie's artillery, and supposing that Ensign Rogerfon had been with that company the morning of the surprize, what use could he have made of the company towards the defence of the garrison, considering the surprize to have happened as it really did?

A. The morning of the surprize we could have made no use of them, they were at too great a distance, but had we been properly alarmed they would have been of great service.

Q. Do you recollect that Colonel Cockburne was brought to the fort after it was taken, and at what time?

A. Colonel Cockburne came into the fort, about ten minutes after it was taken: he was then a prisoner.

Q. Did Colonel Cockburne surrender the garrison by capitulation?

A. I never heard of any capitulation.

Q. Did Colonel Cockburne send from the fort, any

any orders to the different guards and posts, to surrender them to the enemy?

A. Upon my word I do not know that he did.

Q. Did it ever come to your knowledge that any orders were sent?

A. I have heard the officers talk of receiving orders as coming from Colonel Cockburne, to deliver up the guard. I believe he is here, it was Lieutenant Young who commanded the Scale House?

Colonel Cockburne. Q. If a vessel of war had been properly stationed in the island, could the enemy have effected a surprize?

A. We should have been properly alarmed I think, I do not know whether they could have effected a surprize or not.

Q. If Captain Henderfon's company had marched from their quarters upon the first fire of musquetry, might they not have had an opportunity of advancing on the small columns of the enemy, upon the grand parade?

Judge Advocate. Q. You must ask him first, where the first fire of the musquetry was: where was it?

A. I cannot say.

Colonel Cockburne. Q. Did you hear any musquetry that morning?

A. I did.

Q. From what direction did you hear musquetry?

A. Near the grand parade as I suppose.

Q. Now that question, Sir, if you please, if Captain Henderfon's company had marched from their quarters, from the firing of musquetry, might they not have had an opportunity of advancing upon the small columns of the enemy, on the grand parade?

A. I do not know in what parties the enemy were, if they had found an enemy, they would have attacked them I suppose.

Judge Advocate. Q. Be so good as to give the best answer you can to that?

A. I do not know what parties the enemy had, had the company marched and found an enemy there, they would have attacked them I suppose, five minutes would have brought them from their barracks.

Court. Q. When you heard the firing, and supposed it might be from the firing of the troops at exercise, might not Captain Henderfon's company also have made the same supposition?

A. To be sure, Sir.

Q. Were the enemy in possession of the fort, before you heard the firing?

A. There was firing in the fort the same time, there was scarce an instant between one and the other.

Q. When you heard the fire of the musquetry

in the morning of the surprize, was it before or after the draw-bridge was let down?

A. After, Sir.

Q. How long had the draw-bridge been let down, before the enemy rushed into the fort, through the gate?

A. I suppose near a quarter of an hour, it was let down at gun firing in the morning, agreeable to order.

Q. Did the enemy enter the fort by any other way than through the gate?

A. Not to my knowledge, there were many other places they might have entered.

Q. Do you know whether Colonel Cockburne gave any orders to the sergeants on duty in port on the morning of the surprize, previous to his capture?

A. I should imagine not, Sir, had he given any orders I must have heard of it.

Q. Do you know of any?

A. I do not know of any orders, had there been any, I must have heard of them.

Q. Was there a serjeant's guard?

A. There was a serjeant's guard, and a serjeant belonging to the artillery, there was a serjeant and corporal of artillery and seven additional.

Q. Did the garrison of the fort make any attempt to raise the draw-bridge after the alarm?

A. They did, and one of the additional, a soldier of the 15th, was shot through the body.

Q. That is one of the additional gunners?

A. Yes.

Q. I remember you informed the Court, that you did not look upon Tumbledown Dick to be a fort of importance?

A. I did say so.

Q. Inform the Court, why you did not think Tumbledown Dick to be a fort of importance, for the defence of the island?

A. It was stationed in a hollow, a very ill constructed work, close to the water side, that ships of any force coming against it, must in a few moments destroy it; there being such a depth of water for an approach of the ships, their being able to lay so close against it, and they must in a short time destroy it.

Q. Did you consider that a place calculated for an enemy to land there?

A. They might land there.

Q. I observe there are a great many batteries and guards, that were established between the garrison and the south part of the island: I wish you would inform the Court, the purposes to which those batteries and guards were established on that part of the coast, because it seems to be more guarded than any other part of the island: describe the nature of the force;

force, and the purposes for which they were put there?

A. These batteries had been most of them erected before the ditch, they were made to prevent an enemy's landing I suppose; for the enemy could land in most of those places where you see batteries; particularly in one that Colonel Cockburne gave directions about, which is the last but one.

Q. You mentioned Tumbledown Dick as a post of no great importance, was there any post or high grounds about Tumbledown Dick, that would have obstructed the enemy in their approach from Jenkins's Bay, and consequently that might be deemed of importance?

A. There were many situations about Tumbledown Dick, and many posts that would have prevented an enemy's landing at Tumbledown Dick, but that has no connection with the road at Tumbledown Dick, none in the least.

Q. Were there any situations near Jenkins's Bay that might have obstructed the enemy?

A. The hills from Jenkins's Bay to the Signal Hill form very strong posts.

Q. You said, very few men would have obstructed the landing of the enemy, by throwing down stones?

A. I said so; I believe a very few men.

Q. Was not there any posts established in any of the situations that you have described in the nature of Tumbledown Dick, that could have opposed the enemy's landing? Was there any posts established in those situations?

A. None.

Q. Was there any other easy way of getting into the port except this?

A. Many ways; the fort was considered of so very little importance, that there were two batteries flanked of twenty-four-pounders.

Q. Was it usual in the duty of Fort George for a commissioned or non-commissioned officer to patrol every morning the ramparts, to see if every thing was safe before the draw-bridge was ordered to be let down?

A. There was no ramparts in the fort; the men by looking out of the gate could see about five yards.

Q. That is not an answer. Was there a way round for one man to walk?

A. There was just room for one man.

Q. Was there a patrol ordered to do this duty?

A. I do not know.

Q. How far could you see round the fort?

A. About five yards; the houses are close to the fort; it does not deserve the name of a fort; it is really a prison.

Q. Which way did the enemy approach the Island, from what point or quarter?

A. They came round the north-east part of the island.

Q. How long were you informed they were in their passage?

A. From the information I received from French officers, they sailed the 15th of November from Martinique, and made the island of St. Bartholomew the 24th in the evening, or early the next morning.

Q. Did you understand why they were so long in their passage?

A. Beating up between Dominique and Martinique to get to the windward part of the island. — Here is a French gazette that gives an account of it.

Q. Could they have come a shorter passage if they had come to the south or east part of the island?

A. They might have come a shorter passage by coming to the leeward of the island, but it would not have answered their purpose so well.

Q. How many days might it take them to come directly from Martinique to St. Eustatia?

A. With a breeze of wind, I suppose, two days, or less.

Q. What number of men rushed into the fort, and took possession of it; and what number might follow them immediately?

A. I cannot say what number; it was full in about ten minutes, or less.

Q. Cannot you give a guess at the number?

A. I should imagine there was about one hundred in less than five minutes; they kept constantly coming in for an hour afterwards.

Q. Did the principal part of the main body assemble in the fort?

A. I cannot say.

Q. When you mentioned that Lieutenant Young said he had orders to surrender his post, would his post at that time have contributed to the defence of the island?

A. I think not.

Q. Did you understand the French had guards dispersed in every part of the town?

A. I understood from the French officers that they had guards to every barrack.

Q. Were there not some batteries that commanded the fort?

A. Yes, Sir, there were.

Accuser. Q. He has said, that if a vessel had been stationed on the island, it must have alarmed the garrison. Does not that depend upon the situation that vessel was in?

A. Certainly.

Q. Had men been posted upon the commanding hills that commanded the shores, would not they have alarmed the garrison much earlier and better than any vessel?

A. I do not know what hill Mr. Rogerfon means; he had better explain the hill, for there are many.

Q. Upon the quay, upon the high hills that commanded Jenkins's Bay, and upon every commanding hill in the island?

A. I believe they might.

Q. I beg to ask the heights of the ramparts in Fort George on the outside to the bottom of the ditch?

A. It is difficult to say; the masonry was in some parts three feet, some four, some five, in other places much deeper; a few prickly pears growing in the ditch, and trees planted round it.

Q. What was the depth of the ditch on the right and left of that bridge, the surface of the bridges?

A. About ten or twelve feet, I believe, Sir.

Colonel Cockburne. Q. Is it the established rule of all garrisons to issue public orders when troops are appointed to fire and exercise, in order to prevent mischief?

A. I always found it so.

Q. Were there any orders issued for troops to fire in the morning of the 26th of November?

A. No, Sir, there was not.

Q. Had not Captain Garstin the sole command and direction of Fort George before my command, and during my command?

A. I was Captain Commandant of Fort George and its dependencies, appointed by General Vaughan in February or March, and continued so to the time of the capture.

Q. Was it the custom in the island of St. Eustatius to issue public orders when troops were to fire and exercise?

A. The garrison never fired to my knowledge.

Q. It is very well known that the discipline and manoeuvres of the regiments depend entirely on their own commanding officers, not on the officer that commands the garrison.

Court. Q. You admit, Sir, that there had been a picquet formerly in the garrison?

A. Constantly.

Court. We apprehend, Colonel Cockburne, that it is quite the reverse?

Colonel Cockburne. There was no application to me from the commanding officer; I never would attempt to infringe upon the commanding officer, but rather support him.

Court. Q. Where was the house situated that had the outlying picquet?

A. It was near General Vaughan's quarters, and near Fort Rodney, almost opposite to head quarters.

Q. Was that where Colonel Cockburne lived?

A. No, a great distance from it.

Q. To the southward?

A. Yes; the picquet existed the morning of the surprize.

Q. Not the out-lying picquet; that was changed, you know, by Colonel Cockburne, to the in-lying picquet?

A. The out-lying picquet was posted at the house I have marked.

Q. What was it when it was established?

A. I cannot say whether it was at gun-firing or guard mounting in the morning; there is an order for all guards to be disposed on the grand parade; a standing order of the garrison, that is very well known, I believe, in the garrison.

Q. I wish to know of you when they were disposed, and the order in which they were disposed?

A. I cannot say.

Accuser. Having now finished my witnesses, Sir Charles, on this article of charge, I beg leave to submit to the candour of the Court the narrative I gave in to General Christie, governor of Barbadoes; I also brought it home to his Majesty's ministers; it lies on the table, and I shall be very happy if the Court will permit it to be read.

Court. Is it your narrative?

A. Yes, Sir.

Q. Narratives may be founded upon opinions, and opinions may be various.

President. Every thing you have to say upon your charge is now before us, your narrative is of no consequence.

Accuser. I wish only for the Court to have formed an idea whether the report I made to General Christie, and which I brought home, was true or not.

Judge Advocate. The Court will not receive your narrative.

Accuser. I also beg leave to submit to the Court, that I have no objection to the reading of any of Gen. Christie's letters to his Majesty's ministry with respect to Colonel Cockburne; but there being very miscellaneous matters in those letters, it may be very improper to read any part of those letters which may relate to any other affairs.

Judge Advocate. Unless they were produced in evidence, the Court knows nothing that any such letters exist.

Accuser. I beg General Christie's letter of the 20th of December may be read.

Judge Advocate. How can any letter of General Christie's be read, supposing it to be his letter which is first to be proved, he is not upon oath, nor is he here to be cross examined.

Accuser. It is only a letter that relates to —

Judge Advocate. You must not mention it.

Accuser. I will now proceed, if you please Sir Charles, to the remaining article of my charge.

Judge Advocate. Mr. Rogerfon has now disposed of

of that part of the charge which relates to the loss of the island, he now purposes to submit to the Court his evidence relative to the other article.

Colonel Cockburne. As you are so indulgent to allow it to be separate, I beg you will give me till Saturday, or even Friday, to prepare for my defence.

(The Court cleared.)

(The Court refused.)

Judge Advocate. The Court will allow you till Friday to prepare and arrange your defence, and afterwards they will proceed to the other part of the charge.

Colonel Cockburne. May I be indulged with a list of those witnesses he means to examine?

Judge Advocate. I believe nobody has a title or right to a list of witnesses, nor does it lay with the Court.

Colonel Cockburne. There is an orderly book of the town major's I should be glad to have the perusal of, to refresh my memory about some orders. He kept the book.

Judge Advocate. I will pick out what is necessary for the Court, and it shall be returned to the town-major, and he will attend you with it what hour you please.

Accuser. Here is a quarter-master, Mr. Sheridan, I have no manner of objection that he may be discharged, if Colonel Cockburne does not want him: I summoned him myself.

Colonel Cockburne. I apply for him, I have a very particular question to ask him; I waited till Mr. Rogerson called him.

Judge Advocate. You must not trust to that, you must summon your witnesses yourself; let him attend.

Eighth Day's Proceedings.

Accuser. Sir Charles, there are a number of witnesses that were summoned on the part of the Crown, would be very happy to be allowed to come into Court, if Colonel Cockburne has no objection.

Judge Advocate. Have you any objection, Colonel Cockburne?

Colonel Cockburne. If they are not to be examined as witnesses, I have no objection.

Accuser. They are not on my side.

I am now in the 36th year of my service, without an hour's remission from it; served every war that has happened within that time and have been often wounded.

My reputation as a soldier in every rank was unblemished, till this unfortunate accident, which I shall ever look upon as the heaviest misfortune of my life.

My zeal for, and attention to the service, was ever conspicuous, and from the testimony of the several general officers, who will do me the honour to appear before you, I trust and hope you will think so.

I must beg to relate one instance of my conduct as a soldier, which happened in 1757, when I was lieutenant and adjutant in this regiment, and of the garrison of Fort William Henry, that surrendered to the French, I was one of those who petitioned the King, through the then commander in chief, for leave to serve, though contrary to the terms of capitulation, which we looked upon as infringed by the French; the King approved, and I served, (tho' as it were with a halter about my neck) the Marquis de Montcalm having declared he would put to death, every officer he took in service: I saw that great officer fall in the field.

It has been the misfortune of many officers of higher rank and abilities than ever I can aspire to, to have been surprized, but none have been ever held out as a traitor to his country, and persecuted for eighteen months as I have been.

During the time I had the honour of commanding on the island, I did every thing that my judgment could suggest for the honour and advantage of the King's service, I did not spend my time in idleness or debaucheries; I rose every morning of my life at gun firing, and took my rounds.

On the morning of the 26th of November, as I was riding out, I observed three large vessels clearing the north point of the island; upon which I turned about and galloped back, ordering the troops to get under arms, and the drums to beat the alarm, still galloping on without seeing an officer: in my way I heard a few popping shots of musquetry, to which place I repaired with rapidity, not a man with me, and passing by the fort called out to the sentry at the draw-bridge, to order the alarm guns to be fired, at the same time ordered a company of the 13th regiment that was quartered near the fort, to throw themselves into it, without waiting to dress, and draw up the bridge; in this I was disobeyed. I continued galloping to the place where I heard the musquetry, giving the alarm as I passed; but never
once

once stopped at my own home which was on the road, I came to the grand parade, where Captain O'Connor, one of the French officers, seized the bridle of my horse, notwithstanding which I got from him and rode away, when I was fired upon, and turning about again to endeavour to get a few men together, I found myself in a narrow pass, between two columns of the enemy, and was made prisoner.

I might as well have expected an enemy to have fallen from the clouds as where they did, no appearance of vessels of any kind around the island so long as light could give a view, therefore it could never have been supposed, that the few hours between that and day-break could have brought forward such an armament.

One vessel stationed at the island, would have been sufficient to prevent a surprize.

The coast was too extensive for me to afford a force at each post, sufficient to repel an attack; I therefore resolved to post small detachments at every battery, sufficient to give the alarm, upon the principle of keeping together as large a body as I could, with which I could march to the place attacked; had there been a place of arms upon the island, my disposition would have been different.

The greatest body detached, was a company of the 13th regiment, who did not do their duty; for as the enemy debouched into the plain, through the defile of the mountains, that company might have taken a column of them in the rear, and thereby at least made the alarm more general, and given me an opportunity of assembling even a few men, with which I would have attacked the first body I met.

Had I received certain intelligence of the enemy's intentions, (which was not the case) common prudence would have forbid me making it publicly known in the garrison, surrounded as I was by an host of enemies within; though Mr. Ross's letter to me was only founded upon vague and uncertain report; yet it appears I paid proper attention to it.

I freely confess that I never accidentally consulted my second in command, Lieutenant-colonel Headhouse, but with all public orders and measures he must be well acquainted; with Captain Garstin I always consulted in the most confidential manner, convinced of his abilities as an officer, and his integrity as a man of honour.

With respect to reconnoitring, I had frequently done that, long before the command devolved upon me, in quality of quarter-master-general, and in company with the engineer and Brigadier Ogilvie, therefore, I could want no knowledge of the island.

Before the command in chief left the West-Indies, he ordered away the engineer from the island,

and gave orders that no more works should be constructed, in consequence of instructions from the secretary of state; I humbly conceive therefore; that if I had implicitly obeyed these orders, I should have been justified, but my military feelings prompted me to enquire, if any thing further could be done for the security of the island, and finding that there could; I for the first time of my life, dared to disobey, by erecting two new batteries, and repairing a third, under the immediate direction of Captain Garstin, who by his abilities very amply supplied the place of engineer.

When the conduct and merits of an officer of thirty-six years experience, acquired by the toils of fourteen campaigns, are to be rated by the opinion of those who have neither years, or service on their side, nor ever had an opportunity of being called out into active service; the discipline of the army must certainly be in danger.

After the Captain's detachment had been posted at the English Quarter as described by Captain Garstin I should have established of course a picquet from that main body upon the hill above Jenkins's Bay; and other places if found necessary; so soon as I could have made any sort of cover for them, but sooner I could not; for every person acquainted with the West-Indies must know, that the consequence to men lying out all night without cover, is almost certain death, but particularly so to men ready melted down by the climate.

My first attention, therefore, was taken up to defend the most accessible places, but tied up as I was, I was resolved to persevere in my exertions to the best of my judgment.

This Court will please to observe that the reinforcement offered by Major-general Christie consisted only of one battalion company of the 13th, both weak and sickly, he had long before that time taken away the four flank companies from me, which were the flower of the garrison.

I must beg to inform the Court of Brigadier Ogilvie's reason for adding an officer, and fourteen men to the detachment at Tumbledown Dick, on the 7th of May. The repulse Admiral Hood's fleet met with from the enemy, and his retreat was the true cause; the brigadier being under some apprehensions for the safety of the island, which was communicated to the island on the 4th of May, and on the day following Admiral Rodney and General Vaughan sailed in the Sandwich: The cause surely was removed long before I had reduced that detachment.

There was never an out-picquet established by Brigadier-general Ogilvie, there was an house, indeed, in the town that the picquet lay in, and were
dismissed

dismissed at gun-firing: The men of that picquet were allowed a tour of guard, and therefore, the sickness of the garrison obliged me to order them to lie in their respective barracks, which saved the men a guard.

My idea of an out-picquet, is a body of men posted in the front or upon the flanks of an army.

With respect to the men having only six rounds of ammunition in their immediate possession, that was ordered by the commander in chief, upon the principle of preventing of great waste of ammunition, that was but too common. But surely as the remainder of the sixty rounds per man was lodged in the store of each regiment, it must be a neglect in the commanding officers of corps, if their men at any time wanted ammunition:—

Though I was made prisoner by the enemy in the early exertion of my duty, that should not have prevented the other two field officers, and those under them from catching the alarm, and assembling their men, which does not appear to have been the case, for I believe every officer (except myself,) was made prisoner in his quarters.

In a day or two after the island had been taken, knowing that a very particular intimacy subsisted between the Marquis de Bouillie and Lieutenant Mackenzie, I requested him to apply to the Marquis and the officers under him, for every information, they would give relative to this exertion, that I might form a report thereon. Lieutenant Mackenzie did so, and gave me a paper in his own hand writing, which I lay before the Court.

The pointed and prejudiced manner in which Lieutenant Mackenzie has given in his evidence, I hope has not escaped the notice of the Court, he swears that Mr. Rofs told him, that the intelligence he gave me was verbal, and on the Wednesday before the island was taken; but Capt. Garstin, whose testimony I hope may be allowed to bear the appearance of more candor, declares, that the intelligence I received from Mr. Rofs, was by letter written from one of the windward islands, and which I shewed to him immediately upon receiving it. Captain Garstin also declares, that he never heard of any verbal intelligence given to me by Mr. Rofs.

Lieutenant Mackenzie has also introduced a Mr. Neagle, with such insinuations, as if he was employed by me to carry on a traitorous correspondence with the enemy, I must therefore, trouble the Court with every thing I know of that Mr. Neagle. He is a native of Ireland, and was upon the island long before we took it, in the mercantile-line, and in company with a Mr. Davis, another subject of the King's. Their character was so good that their

property was secured to them by both commanders in chief.

Mr. Texier the principal French Merchant upon the island, was a great friend to this Mr. Neagle for some years past, and when he was ordered off the island with the rest of the French inhabitants, he requested of Mr. Forster the commissary-general, and myself, both of us living in his house, and which he left furnished for us, to allow Mr. Neagle a room in it, that he might take care of his house and furniture, should Mr. Forster and I quit the island, which we expected soon.

Upon Mr. Texier's request we gave Mr. Neagle a room in the house, and finding him a man of principle and of sound allegiance to the King, we asked the favour of his company to our table, which he was so good as to grant us.

I am persuaded that his Majesty has not an honest subject, and that if he could have procured or given intelligence, it would have been to the interest of the King his Master.

The affidavits and other proofs which I have the honour to produce to the Court, will be sufficient to wipe off the black insinuations of Lieutenant Mackenzie.

It is not at all probable, that if I had employed Mr. Neagle secretly that he would have communicated it to Lieutenant Mackenzie or any other person:

If any intercourse or correspondence has been carried on from St. Eustatius to Martinique, it must have been most probably by Lieutenant Mackenzie himself, the intimacy between the Marquis De Bouillie and him being so generally known.

I must beg leave to relate a circumstance or two of my own knowledge: When the Marquis de Bouillie was preparing to send off his express to France, Lieutenant Mackenzie asked a passage in that vessel, the Marquis replied, that it would not look well for him to go to France alone, without other brother officers, as the intimacy between them was so generally known. The consequence was, that two other officers asked a passage to France, and Mr. Mackenzie went in company with them. Again,

One night at supper, the Marquis de Bouillie pulled out a pocket book, in which were the names of all our regiments in the West-Indies with their strength, this he gave to Mr. Mackenzie with the pencil to correct; he readily undertook the task, to my great mortification, but as the Marquis understood English very well, I could only give dumb hints to Mr. Mackenzie to desist, which he did not take.

Upon

Upon this I had no other alternative; but to tell the Marquis that Mr. Mackenzie had not the same opportunity of knowing the strength of the army that I hid, and I could assure him, that the regiments in that list, consisted of double the numbers that they were set down at.

I shall make no further comment upon the evidence of Lieut. Colonel Headhouse, than that he must have a very treacherous memory indeed, he swears that I continued in the command of the island, from the death of Brigadier Ogilvie, to the day the enemy took the island, forgetting altogether, that Brigadier Frazier was sent down from Barbadoes by the command in chief, to supersede me in the command, in which he continued till a fresh disposition was made; if therefore, the reducing of the guard at Tumble-down Dick was a wrong measure, or any other disposition I had made, why did not Brigadier Frazier alter it when he was in command.

The Court, I hope, will look upon the evidence of serjeant-major of the 13th regiment in its true light. He swears, that after I had been made prisoner, I sent him with orders to Captain Garstin not to fire, but says, that no person heard me give those orders, nor did he himself acquaint any one with it.

Had I been in a situation to give orders, it is not probable I should have employed him for that purpose. His cowardice in flying from the enemy upon a few shots, when he had bayonets, without making the least resistance, I believe is without example; particularly as his numbers were little inferior to the enemy.

With respect to any orders Adjutant Smith might have given, I am totally ignorant of. But taking it in the most unfavourable light, no disadvantage could arise therefrom, as it is notorious that the whole garrison were prisoners in the fort long before such orders could have been given.

Lieutenant Rogeron has taken great pains to convince the Court, that he is not a volunteer upon this occasion, and that he stands as a prosecutor merely by order; but I should be glad to ask, Why was he a volunteer to Barbadoes, where the most wicked combination was formed for my destruction? With the indulgence of this honourable Court, I shall offer some circumstances, as I hope shall convince them that the malicious and cruel persecutions of Lieutenant Rogeron arose entirely from personal pique and resentment to me, and not from any generous motive for the public service.

The company of the 13th regiment that was quartered above Amsterdam Fort, was particularly poised there by order of General Vaughan, for the purpose of assisting the artillery, and of being a reserve upon any emergency; one subaltern, at least, was posi-

tively ordered to remain there constantly, and I had provided quarters accordingly. These orders of the commander in chief, Brigadier Ogilvie, were strictly executed, giving his directions accordingly to the commanding officer of the regiment; this company I continued under the same orders, always looking to the commanding officer of the regiment as responsible.

Notwithstanding my long service, I yet was obliged to purchase most of my commissions. My company and majority particularly. My present rank I obtained from Sir William Howe, in the field of battle, upon the fall of my lieutenant-colonel by my side.

Whatever opinion the 13th regiment may have formed of me, I am persuaded that the 5th regiment, which has been long inured to war, and subject to strict discipline, never thought my conduct reprehensible.

My sufferings have been truly great from the 6th of November last. I was ordered under an arrest, which, though one at large, yet has been attended with most disagreeable circumstances.

I have also been set aside in my rank, a circumstance truly distressing, as it conveys an appearance of guilt. I trust, however, to the candour and equity of this honourable Court, that its judgment will restore me to the countenance of my Sovereign, and the same good opinion of my brother officers that I have heretofore experienced; and that upon mature consideration of the evidence they have already received, they will find it amounts to nothing more than hearsay and matter of opinion, and as such not to be regarded.

Judge Advocate. If I did not misunderstand you (and if I did, I beg your pardon) you said in your defence that there had been a persecution of eighteen months against you, I wish that may receive an explanation, because I suppose it is not to be proved; I am persuaded there never was an intention of any such thing from the Court.

Colonel Cockburne. I am sure not in you, Sir Charles, nor any man in office; I can only appeal to the world, the publick, and every body; if you consider in what light I was held out to my country, — first, it was given out I had sold the island, and run away to France, that was the received opinion; I asked indulgence of the Court the other day, that the public letters sent over by Major-General Christie might be read; if they should be read, the Court will see I have been most maliciously held up as a traitor, whereas I came home to throw myself upon the laws of my country as soon as I had an opportunity.

Court. These are the feelings of your own mind, but no persecution of government.

Q

Colonel

Colonel Cockburne. Only so, Sir, nothing more, only from the public reports against me.

Court. But it was proper to mention it, for fear the audience should run away with a notion that you was oppressed by a prosecution from government.

Judge Advocate. Therefore these are only public rumours and surmises; but it cannot be called a prosecution, for although you are trying for a capital offence, you are even now at large, although under an arrest.

Colonel Cockburne. It is the first I ever had in my life, and the first rebuke, and therefore more heavy upon me; I cannot describe my feelings.

Judge Advocate. When you have rested yourself, Colonel Cockburne, a little from your exertions, I believe the Court are ready to hear your witnesses.

Court. Q. Had you not better rest yourself a little, Sir, suppose you go out of Court and take a little air, you had better retire for a few minutes.

General VAUGHAN sworn.

Colonel Cockburne. Q. I beg leave to ask General Vaughan, if he gave orders to Brigadier Ogilvie to stop all further works, that no new works should be constructed?

A. I directed Brigadier Ogilvie, that no works that was attended with publick expence, should be erected without my particular orders?

Q. Did not you order away the engineer from the island?

A. The engineer was sent away by my order to Tobago.

Q. Did you think a vessel stationed on the island necessary for its defence?

A. Most certainly it would have been of very great use.

Q. Do you recollect that Admiral Rodney upon quitting that station promised to send down either one or two frigates to be sent there?

A. I do not immediately recollect that Sir, but I always understood from Lord Rodney's conversation, that he meant that some force should be always there.

Court. Q. Meaning ships?

A. Yes, Sir, of course there could be no other brought.

Colonel Cockburne. Q. Did you order a company of the 13th regiment, so detached above Amsterdams Fort, with directions for me to provide quarters, at least for one officer, who was constantly to reside there?

A. I did direct a company to be quartered at Goulet's house, which if I am not mistaken is above the fort, when the company was ordered, in course the officers were supposed to be with it.

Q. Did you order Brigadier Frazer down to St. Eustatius, to supersede me in the command of St. Eustatius?

A. Brigadier Frazer was at Barbadoes without a command, and General Ogilvie was dead, and upon his death being reported to me, and Brigadier Frazer being without a command, I ordered him down to St. Eustatius to take the command of that place.

Q. Did Brigadier Frazer remain on that command till you had made a fresh disposition on his going to Europe?

A. He did, Sir.

Q. I beg you will speak as to my character?

A. With respect to Colonel Cockburne's military character, I always looked upon him to be an exceeding good officer, who perfectly understood his duty, I have always heard the same character from old and experienced officers who knew Colonel Cockburne much better than myself; during the time he was under my command I never had occasion to find fault with his conduct in any shape whatever; perhaps the Court might wish to know one thing in particular which I did not mention, with respect to the engineer's being sent to Tobago, there were before two engineers in that command I believe, and some deputies, there was an order from the secretary of state to me, signifying, that Tobago demanded some immediate assistance at the field barracks, when the engineer had done at the island of St. Eustatius, he was sent by me to Tobago, as I was apprehensive some bad consequences might ensue, but the deputies remained on the island of St. Eustatius; I thought it might be necessary to give you a reason why the engineer was sent from St. Eustatius.

President. Q. I presume you looked upon the island in a period state of defence?

A. There were not particular orders to hinder him from doing any thing; after he had the command of all the negroes, and every thing that I had, I looked upon the island of St. Eustatius not to be worth the amazing expence of forty or fifty thousand pounds, for I apprehend it is impossible to fortify an island in that state, where there is no water, therefore it was fortified, as I thought, fully sufficient having a good garrison: I suppose nobody would give twenty thousand pounds for the island, and in reality where I had no authority, I should not put government to any such unnecessary expence, and it was rather signified to me that it was not required; at the same time, the commandant had the negroes of the island to do any little thing he thought proper himself; for my own part, I never saw any occasion why conquests should put the publick to expence, if we were to be at an expence in fortifying

fortifying these places, I never thought it worth while.

Court. Q. If I understand you right, these orders were, not to erect batteries at the publick expence, but if they could be done by negroes there was no objection to it?

A. Certainly, Sir, not the least in the world.

Accuser. Q. Was it by your approbation Colonel Cockburne acted as quarter-master-general and commander in chief to the island of St. Eustatius?

A. When I left the island on the 1st of August, Colonel Cockburne being the oldest officer took the command, as he had it before.

Q. Do you recollect the time Brigadier Frazer took the command of the island, and how long did he remain in that command.

A. I do not recollect the time, because I could not be sure, when he arrived at the island, but I apprehend he did not command above a fortnight or three weeks, I really am not sure of the time, but it was a very insignificant time.

Q. Do you know he was upon the island, and how long did he remain there?

A. To the best of my memory, I saw him there when I came to St. Eustatius, I was there only two days myself, I found him there.

Q. I should be glad Sir Charles to have the orders read, I thought he continued only a day or two?

Judge Advocate. I apprehend that Colonel Cockburne from the first time of his taking the command, had continued in that command till the time of the surprize?

A. I only mean from the time I ordered him down, I came down to St. Eustatius on the 29th of July, I left it on the 1st of August, I suppose it will not be of any satisfaction to the Court to inform them, why General Frazer did not continue in the command, if the Court wants to know the reason why.

Court. We would not wish it.

Q. Was he commanding officer?

A. No, he went to St. Kitt's a day or two before.

Accuser. Q. What day did General Frazer leave the island?

A. Upon my word, Sir, I cannot recollect the particular day, but I am sure it could not be above the 27th, 28th, or 29th of July that he went away, for I sent him away during my stay at St. Eustatius.

Q. Did Colonel Cockburne remain in command, from the time you left the island to the day of the surprize?

Upon my word it is more than I can say, not being upon the spot; I cannot tell whether he remained; I left him in the command when I left the island,

Q. If the commanding officer of the island, had not a discretionary power of erecting any battery he thought proper, in case of any urgent necessity?

A. He had no obstruction from me whatever.

Q. Do you not think the defence of the island consisted in a great measure on keeping a good look out, and preventing the enemy's landing?

A. Certainly so, it is a very necessary precaution I believe every where.

Accuser. As there was no place of arms on that island, was it not particularly necessary to keep a good look out there, to prevent a landing?

Court. Q. Was there any strong place of defence tenable in particular, on the island?

A. Nothing in particular I think there, the upper town of itself I think is very tenable.

Q. No particular fortress?

A. Nothing but the fort?

Q. Was that a place of any strength?

A. As cannon could not be brought against the place, I look upon it it was, unless it was of very great force indeed.

Accuser. General Vaughan did not speak respecting keeping a good look out to prevent a surprize.

A. I look upon it, that it is always necessary in every place, I do not know any thing necessary in St. Eustatius more than any other place, but in every place in the West-Indies, I look upon it necessary to have a good look out, I do not know any thing necessary in that, more than any other place that I know of.

Q. Do you recollect ever ordering any new pieces of artillery into Fort George, in the room of them that were found unserviceable?

A. I do not immediately recollect ordering any carronades to Fort George, but very likely it might be so, I should think it is not unlikely.

Q. Is not the appearance of five ships at sea, always looked upon as a sufficient signal for an alarm in time of war in the West-Indies?

A. Certainly.

Q. As there was no vessels stationed off the island upon that account alone, was not it necessary to keep a better look out than if there had?

A. Certainly.

Court. Q. Considering the nature of the ground upon the island of St. Eustatius, do you think five hundred men are sufficient for the defence of that island, and to supply proper posts for its security, entirely as alarm posts?

A. When I left the island at first, I left nineteen companies of foot, when I left it a second time, I left it with seventeen companies of foot, the two flank companies of the 15th regiment I ordered to

St. Kitt's, the garrison at that time I suppose, with sick and well, about eight hundred men.

Q. I mean merely from the nature of the island, whether five hundred effective men would have defended the island, and have supplied a sufficient number of posts to have defended the island in the situation it was in on the capture?

A. I should think so, I should think five hundred British would be a very good defence, if it had been in the state it ought to have been in.

Q. Had they been properly alarmed, you think five hundred men would have been sufficient?

A. Certainly.

Q. What number of men do you think it would have taken, to establish a sufficient number of posts to have given the alarm, and secured the island properly by preventing a surprize?

A. A very few men would have done it I suppose.

Q. In what estimation did you conceive Tumbledown Dick?

A. I always heard about Tumbledown Dick, and I ever looked upon it, and thought it was a post that might have been of some use to hinder a surprize, in that part of the island, but there could nothing appear on that side of the island without being seen, therefore I never looked upon it to be of any great consequence myself.

Q. Of what consequence to Great-Britain, was the taking the island of St. Eustatius?

A. At the time we took it, I looked upon it to be of the utmost consequence.

The Court cleared.

The Court resumed.

Mr. MACKENZIE called.

Judge Advocate to Colonel Cockburne. I have received an application from Lieutenant Mackenzie, that he may have an opportunity of vindicating his character, which he understands is impeached in a part of your defence.—So long as a witness conducts himself properly, he is under the protection of the Court; therefore, what was said in the outset, concerning Lieutenant Mackenzie, certainly had better been omitted; if he has said what is improper, the Court will take notice of it, but it has not appeared that he brought this matter forward; he is like other witnesses summoned to attend, and here he is brought to answer such questions as are proposed to him.—Those facts which you advert to were brought out from questions that were proposed to him in the course of his examination, and therefore, do not appear to the Court, to have been brought forward improperly by him.

Judge Advocate to Mr. Mackenzie. Lieutenant Mackenzie, the Court, if they think your character impeached, will suffer you to have an opportunity to defend yourself?

Lieutenant Mackenzie. I wish to have an opportunity to defend myself from such false aspersions.

Judge Advocate. Q. At present the Court can do nothing in it; was what was said of you respecting yourself communicated to you or did you hear it?

A. It was communicated to me, I wish this matter to be fully investigated, it is a cruel charge.

Court. You should know what it was that had been so. (The Judge Advocate then read those parts of the defence, which mentioned Lieut. Mackenzie).—If the Court permits your evidence to be impeached, they will give you an opportunity to reply.

Judge Advocate to Colonel Cockburne. I have also a letter from General Christie, that he is arrived in England, and is possessed of some original papers, of which he understands the Court has copies.

General VAUGHAN called again.

Colonel Cockburne. Q. The last time you went down to St. Eustatius, had you any conversation with the inhabitants, or application from them relative to me?

A. Upon my coming to St. Eustatius some or a good many of the principal neighbours of the island, came to head quarters, in the course of conversation with these people, I enquired how they liked their commandant, the answer they gave me was, they liked him very well, and hoped he would not be changed.

Q. Did you ever know that the office of quarter-master-general was qualified to take his command according to his rank?

A. The quarter-master upon North America did duty in both capacities, I never knew him do it any where else indeed.

Court. Q. Did you know Mr. Neagle upon the island of St. Eustatius?

A. I have seen him, and have heard of such a man.

Q. Did you ever hear that his character was that of being attached to Great Britain or to the enemy?

A. I never heard any thing relating to it. I have heard the man well spoken of, but I know nothing of his character with respect to his attachments.

Q. Do you recollect whether Mr. Neagle's property was ordered to be restored to him upon taking the island?

A. I do not immediately recollect that, though it might be so, I believe it was given him back again

as a British Subject, I desired nothing belonging to a British subject to be touched.

Q. Of the number of the inhabitants of the island that you conversed with, what was your general opinion of their disposition towards the English?

A. Why, Sir, I should think there was nobody there hardly, that were friends to Great Britain, the great number there might be men that would say, we would give the preference to you rather than another, but that only to serve themselves; something of that kind.

Accuser. Q. Was not Mr. Neagle a burgo-master previous to the time he took the island, and a merchant that might trade with the enemies of Great Britain if he thought proper?

A. I do not immediately recollect whether he was a burgo-master or not, but I understood that the Dutch laws were such in the island, that every man who resided in the island and traded in the island, was obliged to be a burgher of the place.

Q. Might he not have traded with the enemies of Great Britain?

A. Of course as he was a burgher, he traded with the enemies of Great Britain, there is no manner of doubt that the whole place traded with the enemies of Great Britain, they not only traded, but the American correspondence went chiefly through the hands of the people at St. Eustatius, to all the different courts.

Court. Q. His having his property restored was not for any distinguished part of his character, but as a British subject?

A. What I mean by being restored to him was, it was not disposed of, I do not recollect particularly as to him.

Accuser. Q. Was the island of St. Eustatius as being the leeward most fortified island in these seas, of the most essential importance to our fleets as a rendezvous, in case an action had happened to windward?

A. I look upon St. Kitt's to be in the same situation as St. Eustatius.

Q. Was not St. Eustatius the most leeward island?

A. I apprehend very little difference between them.

Q. In your opinion was not the loss of the island of St. Kitt's, Montserrat and St. Nevis, the consequence of the loss of the island of St. Eustatius?

Judge Advocate. We have nothing to do with the consequence, this was a place that was assigned for Colonel Cockburne to defend; we may lament the more if it was so, but that has nothing to do with this trial.

Accuser. Q. If Lieutenant Mackenzie of the 13th was not sent to Martinique by General Vaughan's order, on public affairs?

A. He was.

Q. Did not you send him as an intelligent officer, and well versed in the French language?

A. I did, I looked upon him as a very proper person.

Lieutenant THOMAS WATSON of the 13th regiment sworn.

Colonel Cockburne. Q. What do you know relative to the signal men having been upon their post or not, on the morning of the surprize?

A. On the 10th of December, I waited on the lady, at whose house the two signal men used to stay in the night time, I asked her where the two men were when the island was captured, she told me, that she saw the glittering of arms upon Signal Hill, and she ordered one of her men to go into the warning house and call John, that was the man's name, the artillery man; she desired he would go up the Signal Hill, and see what the glittering of arms was that was there, for she had lost some stock the preceding day, and imagined they were some people came to take away her stock; he went up and remained there a long time, she then went and desired the other man to go up, he went up likewise and stayed; then she desired her servant boy and another man to go, who were likewise detained; at last she ordered one of her sons, who came running down saying, the French had taken them prisoners.

Colonel Cockburne. Q. Did she tell you upon making these enquiries, if the sun was up, or not, or what time of the morning it was?

A. She did not mention any particulars, only said it was at day break.

Q. Did she tell you if the gun had fired or not?

A. I did not hear her say that, three days after I had asked her this for my own information, I requested Captain Garstin would walk to her house with me, he went with me, and she repeated the same story, which I wrote down and gave Captain Garstin a copy of it.

Colonel Cockburne. Q. I desire this letter which I now offer to the Court, may be read, and that Lieutenant Mackenzie may be called in, to know whether this is his hand writing or not, as I have said, in my narrative, that I applied to Lieutenant Mackenzie.

Judge Advocate. Q. Do you mean to make Mr. Mackenzie witness or not?

A. Only as to that, but I leave it to the Court.

MATTHEW FOSTER the commissary general in the West-Indies sworn.

Colonel Cockburne. Q. Declare to the Court every thing you know relative to Mr. Neagle, from your first going to the island?

A. Mr. Neagle lived in the same house, Mr. Texier's house, with Colonel Cockburne, several months, and was considered as Mr. Texier's attorney for his effects left in his house, and as such continued in his house, and had a fair character as a merchant, and I believe he was one of those English merchants whose property remained untouched, except, with regard to provisions, which were in general confiscated, from the knowledge I had of Mr. Neagle, I ever considered him as a loyal and good subject.

Accuser. Q. I beg leave to know whether Mr. Neagle is not an Irishman, and merchant upon the island at the time of the capture, who traded with enemies of Great Britain?

A. He was an Irishman, and resident upon the island as merchant at the capture of the island, I know nothing of his traffick, but I apprehend from his property being restored to him he did not.

Q. Did not all the inhabitants on the island, particularly the merchants, supply the enemies of Great Britain with naval and military stores?

A. I cannot make the discrimination, but many of them certainly did.

Judge Advocate. Q. Do you understand this to be before your capturing the island?

A. Yes.

Court. Q. Who was Mr. Texier?

A. A French merchant.

Q. And went off immediately on our capturing the island?

A. No, Sir, he staid some time, then he left Mr. Neagle.

Q. Who was Mr. Neagle's general connections with?

A. He had very few connections, but with the English, as I apprehended, I never saw him but with Mr. Texier and his son-in-law, and a brother or cousin.

Q. Are you clear whether Mr. Neagle did or did not trade with the enemy?

A. I apprehended he did not from the reasons I gave.

Court. Q. Was the property of any merchants, subjects of Great Britain, confiscated?

A. No, Sir, I believe it might mix with other property.

Q. What situation was you in there?

A. Commissary.

Accuser. Q. Do you recollect the name of Mr. Texier's son-in-law?

A. I did hear his name was Chabeart?

Q. Do you know or did you ever that Mr. Chabeart was the person that planned the expedition against St. Eustatius, and was one of the first men that landed upon the island, with the French, the morning of the surprize?

A. I know nothing of the matter whatever, I quitted the island four months before this capture.

Q. Did you ever hear so?

A. No, I never did, I cannot charge my memory with any thing about it.

Colonel Cockburne. After I arrived at Barbadoes from St. Eustatius, a malicious report had been circulated against Mr. Neagle, of his having betrayed my secrets on this, he applied to Mr. Texier, he has made a solemn affidavit, a copy of which he has transmitted to me, from Barbadoes through St. Lucia, and is witnessed by surgeon Harris.

Court. Q. Who made the affidavit?

A. Mons. Texier, and it goes to Mr. Neagle's character.

Court. It is very dangerous to permit affidavits, particularly under those circumstances, where there can be no prosecution for perjury nor any cross examination, and if there could, justice is mutual and reciprocal, if you receives them as evidence for a defendant you must receive them for a prosecutor; therefore, I should apprehend it to be of dangerous consequence.

Mr. BOULTON HARRIS surgeon of the 13th regiment sworn.

Colonel Cockburne. Q. Please to inform the Court what you know of Mr. Neagle, while he was at Martinique?

A. I was desired at the instance of Mons. Texier, to meet Mr. Neagle at his house, that he should have an opportunity of laying before me the correspondence of Marquis De Bouillie with him, previous to the capture, and to vindicate upon his oath the character of Mr. Neagle, from the aspersions of treason, in which he was generally held upon the different islands, as he was accused in all the islands that I passed through, French, Danish, and English, as having a treasonable correspondence with Mons. Bouillie or of being privy to the surprize; Mons. Texier shewed me the first letter, he received from Mons. Bouillie on the subject, which I suppose I need not mention.

Court. Q. The purport of it?

A. In consequence of the intimation and information, he received from St. Eustatius, he began to think seriously of attempting a surprize,

Judge Advocate. This is not evidence.

Court

Court. Q. Was Mr. Neagle present at this conversation?

A. I do not know whether he was present when I saw the letters, they were shewn to me in confidence in another room, Mr. Neagle came in presently after, this was about three weeks after the capture of the island.

Q. I understood gentlemen was called now to speak to Mr. Neagle's general character?

A. I do not know Mr. Neagle at all, I heard Mr. Texier make a very solemn oath in regard to Mr. Neagle, that is all.

Judge Advocate. I submit to Colonel Cockburne, whether he think any material can arise from this?

Colonel Cockburne. I am satisfied, Sir.

Accuser. I should be glad to ask Mr. Harris a few questions, if it is not out of order.

Judge Advocate. Q. What are the questions?

Accuser. Q. Whether he knew Mr. Chabeart, and whether he was not on the expedition, and if he landed with the French?

Colonel Cockburne. I submit it to the Court, whether Mr. Harris is adduced by me.

Judge Advocate. This is a new matter that has been introduced in the course of Colonel Cockburne's witness, therefore, he has a right to examine him in reply.

Court. He does not stand as witness, now there is nothing taken down of his deposition.

Judge Advocate. The introduction of Mr. Chabeart's name arose from themselves, and in reply it may be admitted, if the Court should think it material, I should rather with they would not break into the course of the defence now.

Accuser. I will leave it to the reply.

Colonel Cockburne. I have no other evidence to trouble you with on this matter with respect to the letters I alluded to, I beg leave to save the Court the trouble and leave that; with respect to what I have said, relative to Lieutenant Mackenzie, I said what I know, but not supposing I could support it by evidence.

Court. That must be explained to Mr. Mackenzie.

Colonel Cockburne. In these circumstances the Court must see, it is impossible to bring evidence to support it.

(The Court adjourned for a quarter of an hour, to give Colonel Cockburne time to recollect, whether any thing occurred to him, before Mr. Rogerfon is called upon for his reply.)

(The Court resumed.)

Colonel Cockburne. Mr. President, the questions, I have asked many of the witnesses adduced by the

prosecutor having been answered, I would wish to refer to them, and not to give the Court the trouble of calling them again in my defence; I have no other evidence to adduce except the general officers to my military character, which I warned for to-morrow, my Lord Amherst and others.

Judge Advocate. I have another application made on the part of Colonel Headhouse: To be sure the defendant was a right to comment on any evidence that is laid before the Court, the application is of the same nature as Lieutenant Mackenzie's: They think themselves reflected upon, and desire they may have an opportunity of vindicating themselves.

Court. Colonel Cockburne, there are many parts of your defence which seem to tend to criminate others, and therefore, as soldiers they must feel.

Colonel Cockburne. As a soldier, I have felt and have great reason to feel, I never wished to criminate others, but to exculpate myself, if the steps I have taken in so doing are judged improper, I am sorry.

Judge Advocate. Q. Colonel Cockburne, have you any thing more to urge in defence of the facts?

A. I have no other evidence to adduce, but the general officers to my character.

Ninth Day's Proceedings.

The Right Honourable Lord AMHERST

sworn.

Colonel Cockburne. I have taken the liberty to call in your Lordship to my military character.

Lord Amherst. Lieutenant-colonel Cockburne was adjutant to the 35th regiment, under my command during the siege of Louisbourg, he went with the regiment the following year, 1759, up the river St. Laurence, under the command of Major-general Wolfe, to the year 1760, he joined me with the detachment under the command of Brigadier Murray; in 1761 the regiment encamped at Staten Island, and embarked under the command of Major-general Monk, he was with him at Martinique, and afterwards at the Havannah, under the command of Lord Albermarle, he returned to Florida in 1763; during these six years to the best of my recollection and knowledge, Lieutenant-colonel Cockburne behaved as a very active, diligent good officer.

General

General GAGE sworn.

Colonel Cockburne. I have taken the liberty to call on you, Sir, to my military character.

General Gage. I have known Colonel Cockburne a great many years, and served with him; he served with great credit to himself, he always bore the character of an active, gallant, and good officer.

General MURRAY sworn.

Colonel Cockburne. I have taken the liberty to call on you, Sir, to my military character.

General Murray. I have known Colonel Cockburne a great many years, during the last siege at Louisbourg, I always knew him to be a good officer, diligent and intelligent; I had a good opinion of him, that I employed him as my aid-de-camp in the year 1760, he acted to my entire satisfaction, I have known him since as adjutant to the 35th regiment, I think it is, which I reviewed; he was adjutant at that time, and I found the regiment, and reported it accordingly, in very good order, and I was told, that Colonel, now General Cambell, said, it was owing to the assiduity of Mr. Cockburne, that it was in such good order, I have known nothing of him since that time.

General TRION sworn.

Colonel Cockburne. I have taken the liberty to call upon you, Sir, to my military character.

General Trion. I shall be very happy to do it, would you have me mention what I know of you?

Colonel Cockburne. If you please every thing.

General Trion. In the year 1777, I had the honour to command the King's Troops the 35th regiment, Colonel Cockburne was at the head of the number of troops in that command; and I have at all times observed the strictest discipline preserved in that regiment, which I attributed to the diligence and attention of the commanding officer, and I always esteemed and respected him as a very good officer.

General JONES sworn.

Colonel Cockburne. I have taken the liberty to call on you, Sir, to my military character, when I had the honour of serving under you.

General Jones. Colonel Cockburne was under my command in the spring, 1778, I commanded the troops at that time in New York and the islands, after Sir Henry Clinton; the 35th regiment was one of the regiments of that corps; Lieutenant-colonel Cockburne was observing of all the orders given,

and the colonel, and the regiment he commanded, did their duty with great care and diligence, in the post where they were stationed; is there any else you would chuse to ask, Colonel Cockburne.

Colonel Cockburne. Q. One single question, had you been in General Vaughan's situation would you have had any objection to giving me a command?

To Judge Advocate. If the question is proper, I have no objection to answer it.

Judge Advocate. The question is not improper.

A. I should not.

Colonel Cockburne. Sir William Howe, and Sir Henry Clinton are not here, Sir William Howe would have declared that he gave me my present rank in the field of battle, I call upon you, my Lord Percy to attest the same.

Lord Percy. Mine was only hearsay I was not there.

Colonel Cockburne. I know you was not at the White Plains, but you was not gone to Rhode Island.

Colonel Dickson a member of the Court Martial.

In regard to Colonel Cockburne's character, I think Sir William Howe a most material evidence, because being upon the spot himself, I remember to have heard the reasons, why he appointed Colonel Cockburne in preference to senior officers and on his character; to be sure he is a material evidence, I wish he had been here to have spoken, as I certainly myself would have asked that question.

Colonel Cockburne. I hope my military character is fully proved?

Colonel Dickson. I always heard one reason; for his gallant behaviour on mounting the hill, and beating the enemy off.

Colonel Cockburne. I am much obliged to Colonel Dickson for this recollection, I beg he may be sworn.

Colonel Dickson. I will give my evidence with the greatest pleasure in the world.

Colonel DICKSON sworn.

After the battle of the White Plains, I remember that Lieutenant-colonel Cockburne was appointed to succeed Lieutenant-colonel Carr of the 35th regiment, which I always understood was given to him by Sir William Howe, as a mark of his good behaviour and gallantry, in forming his disordered regiment, and marching up the hill to engage the enemy; which was done in preference to officers who were senior to him in the same rank; this was the topic of conversation, which I frequently heard after that battle, and which, I wish could have been mentioned by Sir William Howe himself in person; and if he had not given his reasons, I certainly should have asked him his reasons for doing it.

Colonel

Colonel Cockburne. I have no further evidence to produce to my military character, I hope it is fully cleared up.

Judge Advocate. Have you any thing further to offer at all?

Colonel Cockburne. No, Sir, I have not.

Court to Mr. ROGERSON.

Q. Is Mr. Harris coming, or do you want him, I should first ask?

A. I shall be happy to establish the facts as to the time that General Frazer commanded.

Mr. HARRIS called again.

Accuser. Q. I beg leave to ask Mr. Harris, whether he knows Mr. Chabeart?

A. I do.

Q. Is not he a relation of Mrs. Texier?

A. He is Mrs. Texier's grand-son.

Q. Was he with the Marquis De Bouillie, on the expedition against St. Eustatius, and one of the first men that came into the garrison?

A. I was not on the island when it was taken, but I understood he was the gentleman, that conducted one of the columns of the French, I only speak from hearsay, but I understood he was.

Q. Was not Mr. Chabeart a French officer at that point of time.

Court. That he cannot answer positively.

A. I cannot, he did not command a column, he only conducted one, the principal column as I understood, as a guide; they depended more upon him than they did upon any body else.

Accuser. Q. Was not Mr. Texier remarkably attached to the French?

A. From his expressions only I knew it, he was a very violent partisan of the French, it is naturally to be believed he would; he was a Frenchman, and I believe the principal instrument of surprising St. Eustatius.

Q. Was not Mr. Texier the principal instrument in bringing about the expedition against St. Eustatius?

A. I have mentioned before, a circumstance of some letters, upon which there was some queries, and from the letters I saw, I have reason think he was the principal, and the only person consulted by the Marquis De Bouillie.

Q. Mr. Harris said, he saw the queries of the Marquis De Bouillie, I wish him to inform the Court the purport of them.

Court. To what purpose do you adduce this, it seems to be quite foreign?

Accuser. To convince the Court of the connection there was between Mr. Texier, and Mr.

Neagle, and Mr. Chabeart, because Mr. Foster said in his evidence, that Mr. Texier and Mr. Chabeart were the principal friends of Mr. Neagle.

Judge Advocate. That is very natural as they were Frenchmen, but to what degree they pushed, this is nothing to Colonel Cockburne, if he kept company with Mr. Neagle, and was in habits of intimacy with a suspected person, you are to form your own judgments upon it.

Court. Colonel Cockburne has himself admitted that Mr. Texier was left as Mr. Neagle's attorney when he left the island.

Court. Q. Was you on the island at the capture?

A. I was on St. Martin's.

Q. Do you know where Mr. Neagle was at the time of the capture?

A. No, Sir, I do not.

Court. Nothing at all can come out from this, that Mr. Neagle was privy to this intended expedition.

Accuser. I should be very happy in giving Mr. Mackenzie an opportunity of establishing his credit.

Colonel Cockburne. Permit me a few words, I told the Court yesterday that the circumstances I mentioned concerning Mr. Mackenzie arose entirely from myself, I also observed to the Court, that I did not mean to introduce that as evidence, because no evidence I suppose could be adduced of it, and the Court must naturally know my distress of mind, being pointed at particularly as a traitor, by Lieutenant Mackenzie's evidence about Mr. Neagle; if the Court will for a moment look into my heart, and feel the distresses I feel, I hope they will conclude it was natural I would say every thing that I knew; if I have erred in any point, I submit with great humility to the Court; consider my distress of mind, in being pointed out as a traitor.

Court. You see what you have said of Mr. Mackenzie is a strong intimation that he was a traitor, therefore he must have the same feelings; you said, from his intimacy with Monsieur Bouillie it was more likely he should be the person, that is equally strong, and it is gone abroad in the world, very much to Mr. Mackenzie's disadvantage, therefore it is but common justice to him, to give him an opportunity of clearing up his character.

Colonel Cockburne. I have told you honestly my thoughts on this subject, God sees my works, and I do not wish they should be concealed from men: Every thing—Every thing—

Accuser. Does Colonel Cockburne mean to retract any thing?

Judge Advocate. You can ask Colonel Cockburne nothing, Sir.

Court. It has gone so much abroad into the world, that whatever may be done away from us,

yet something must be in justice to Mr. Mackenzie's character.

Colonel Cockburne. I shall submit it to your opinion, which will not be founded I am sure, on prejudice to my character.

Judge Advocate. Colonel Cockburne certainly has thrown out in his defence, that he was a forward witness, and a light, and (to speak out) that he had pressed things further than the truth would bear; unless that is wiped off by something said by Mr. Cockburne himself, it is strange to say, that Mr. Mackenzie shall not have an opportunity of vindicating himself.

Judge Advocate to Colonel Cockburne. I dare say, Sir, even now the colonel will be ready to hear any thing, if you can adduce any thing to contradict the testimony of any of the witnesses.

Court. Colonel Cockburne, we wish to give you every indulgence.

Colonel Cockburne. I am very much obliged to the Court, I am perfectly satisfied with their candour.

Court. Some indulgence must be granted to Mr. Mackenzie you will recollect.

Colonel HEADHOUSE called.

Judge Advocate. Call in Mr. Mackenzie that he may be present and hear what is said.

Accuser. Q. Please to speak to Mr. Mackenzie's character?

A. Ever since I have known Lieutenant Mackenzie, I never heard any body mention his name but with the greatest respect, and as a good officer.

Judge Advocate. His military conduct you know has not been at all impeached.

Accuser. Q. What is his behaviour as a gentleman, do you consider him as a gentleman of strict veracity, Sir?

A. Yes, Sir.

Q. Is he an intelligent officer?

A. Yes.

Colonel STOPFORTH called.

Accuser. Q. I beg to ask Colonel Stopforth as to the character of Mr. Mackenzie?

A. Mr. Mackenzie was appointed in the year 1779, to the 15th regiment, I always looked upon him to be a gentleman, and a good officer, which character I had from the 27th regiment, in which he had been a man of strict honour and veracity.

Major HENDERSON called.

Accuser. Q. I beg leave to ask him the same questions to Mr. Mackenzie's character, as an officer and a gentleman?

A. Upon my honour, I had always a very high opinion of Mr. Mackenzie, in respect both to his character as an officer and a gentleman.

Q. Do you consider him as a man of strict veracity?

A. Perfectly so in every respect in the world, I know nothing to the contrary, he is a gentleman of great honour.

Accuser. I mean to call every officer in the garrison.

Court. If it is of the least satisfaction to you. *Mr. Mackenzie.* My honour is in the hands of the Court.

Court. Suppose Captain Garstin is called in, he has always been looked upon by this Court as a satisfactory evidence in every respect.

Accuser. I mean to call him in his turn.

Captain MADDEN called.

Q. What is Mr. Mackenzie's character as an officer and a gentleman?

A. I have known him to be as good an officer as I have met with, in the line he is now in.

Judge Advocate. Q. As to his veracity, fidelity, and honour?

A. He has always appeared most pointedly just; I must also mention he came over in the same ship with the Count de Bouillie and me.

Mr. Mackenzie. I shall call on Captain Madden immediately, to explain that.

A. The Count is a cousin of the Duke's; I should imagine I must have been privy to any thing that was improper, if it possibly might pass between them.

Judge Advocate. Q. And there was nothing?

A. Nothing.

Court. It appears to me strongly, that all these gentlemen should be called in to the character of Mr. Mackenzie, from what Captain Madden has now mentioned.

Captain GARSTIN called.

Judge Advocate. The Court wish to receive from you a character of Mr. Mackenzie, as far as respects his fidelity, veracity and honour?

A. I have had the pleasure of Mr. Mackenzie's acquaintance for some years, during which time I have always looked upon him as a man of strict honour and veracity.

Captain FREEMAN called.

Judge Advocate. Q. The Court wish to receive from you the character of Mr. Mackenzie?

A. I always,

A. I always, ever since I have been acquainted with Lieutenant Mackenzie, which is nearly three years, I looked upon him as a man of honour and integrity.

Captain JOHN GEORGE GOLDSLAP of the 15th *sworn*.

Judge Advocate. Q. According to the opportunities you have had of observing Lieutenant Mackenzie; what is his general character with respect to fidelity, veracity, and honour?

A. I have always known Lieutenant Mackenzie looked upon as a very meritorious officer, and a man of the strictest honour.

Judge Advocate. Q. And how long have you known him, Sir, pray?

A. Since the year 1778.

Accuser. Q. Was not you second under General Grant, when he commanded in the West-Indies?

A. I was.

Q. Do you know that General Grant sent Mr. Mackenzie to Martinique on publick business?

A. He did.

Q. Whether he did not send him because he thought him the most proper person to send on such business.

Judge Advocate. How does he know that, the sending him certainly implies that.

Lieutenant LEWIS of the Artillery *sworn*.

Judge Advocate. Inform the Court from your own observation, your opinion of Mr. Mackenzie's character with respect to fidelity, veracity and honour?

A. Since my first acquaintance with him, I have been on very intimate terms with him, and I ever found him to be a gentleman of the strictest honour and veracity.

Q. How long have you been acquainted with him?

A. A little above a twelve-month, when the 15th regiment came to St. Eustatius.

Lieutenant SCOTT of the 13th *sworn*.

Judge Advocate. Q. Inform the Court from your own observation, your opinion of Mr. Mackenzie's character as to veracity, fidelity, and honour?

A. I have had the pleasure of Mr. Mackenzie's acquaintance for some time past, I always looked upon him as a gentleman of the strictest honour and veracity.

Judge Advocate. Surely it cannot be necessary to go any further.

Accuser. There are only three more.

Judge Advocate. Mr. Mackenzie may make himself perfectly easy.

Mr. Mackenzie. If the Court are satisfied perfectly; if not, I wish that the Court would investigate my character to the most minute particular; I have friends of the first character in this nation to support it; my honour is in your hands, and if you think it clear and unsullied I am satisfied; I only wish to counteract the insinuations that have been cast upon me.

Accuser. There is likewise a reflection cast upon the 13th regiment; I beg leave likewise, to be at liberty to counteract what Colonel Cockburne has said against the character of Colonel Headhouse.

Judge Advocate. This evidence was left in by way of re-establishing the credit of a witness.

Accuser. I should be very happy to re-establish the honour of the 13th regiment.

Judge Advocate. The honour of the regiment is another thing, that is not a matter before us; but in order to this Court's being competent to hear that side of the question, we must be competent to hear the other also; now suppose it should turn out against the regiment, are we competent to try that also?

Accuser. I only wish that Colonel Headhouse may be called, to relate a conversation that passed.

Judge Advocate. To what purpose?

Accuser. To re-establish the character and honour of the 13th regiment, and also my own honour.

Court. With respect to the 13th regiment, there seems nothing to lay before us to throw the least imputation in general, but Colonel Cockburne has in two or three instances, thrown some imputation upon you for neglect of duty, and for not abiding in your quarters; there you are at liberty to call any body to that.

Accuser. I beg leave to call Major Hendorson just to that point, whether or not I was appointed to command these men at that place.

Mr. Mackenzie. I beg leave to ask, whether this Court thinks my honour is sufficiently restored to prevent further aspersions.

Judge Advocate. The Court cannot give any opinion to the parties it is impossible: It has been as strongly intimated as you can expect it, I think from the Court, and there is in the first place no evidence to counteract it.

Mr. Mackenzie. You cannot be surprized at my anxiety, here are General Fawcett and several others.

General FAWCETT called.

(He did not appear.)

Mr.

Mr. Mackenzie. I will not trouble the Court any further.

The Court cleared.

The Court resumed.

Judge Advocate to Accuser. I am commanded by the Court to inform you, that your conduct not being before them, they do not think it necessary to hear any evidence upon it; and that as to the question proposed to be put to Major Henderson, they are ready to hear any information Major Henderson has to give them, respecting the conversation between Colonel Cockburne and the major, respecting the 13th regiment, confined to that instance alone.

Major HENDERSON called.

Accuser. Q. Relate the conversation that passed between Colonel Cockburne and you at St. Antigua, respecting the regiment?

A. There was a rumour at Antigua, that Colonel Cockburne had made use of disrespectful expressions of the 13th regiment, at Barbadoes; I mentioned this matter to Captain Garstin who was just returned from Barbadoes, who said, that he had heard concurring circumstances mentioned by Captain Warren: in consequence of this supposed rumour; I waited upon Colonel Cockburne, at General Percy's, in company with Colonel Headhouse and Major Roberts of the 28th regiment. I told Colonel Cockburne, that I was happy to have an opportunity, in the presence of those gentlemen, to ask him whether such a report (repeating that report) of speaking disrespectfully had any foundation in truth; I believe it would not be amiss if I was to mention his own words, he told me, says he, Captain Henderson, (they are his own words as near as I can recollect) I do declare in the presence of Colonel Headhouse and Major Roberts, that I never spoke disrespectfully of the officers or soldiers of the 13th regiment, except that villain Rogerfon (meaning this gentleman here) who has assassinated my character, alluding to (what I am sensible of) his going to Barbadoes; for Mr. Rogerfon went to Barbadoes to General Christie, but what passed between him and General Christie I do not know: I told Colonel Cockburne I was perfectly satisfied, and I was very happy to hear him make such a declaration, in the presence of Colonel Headhouse and Major Roberts of another corps: I believe these were really the words that passed, word for word.

Accuser. Q. May I be allowed to ask Major Headhouse what was my inducement for going to Barbadoes?

Judge Advocate. I understood that his examination was to be confined entirely to this matter.

Accuser. I hope I may have the opportunity of vindicating myself.

Court. Undoubtedly, by application to another power, we have no right to enquire into it.

Accuser. May I be allowed to ask Major Henderson, the character of Serjeant-major Robinson, who has been reflected upon?

Court. Certainly you may.

A. I think we got Serjeant-major Robinson in the year 1763, out of a regiment that was reduced at Hilsley Barracks; I always looked upon him to be an exceeding good soldier, a man of a very fair character.

Judge Advocate. In point of veracity in particular?

A. I have a very high opinion of the man myself; I believe he enjoys the good opinion of every officer in the regiment.

Court. Q. Is he in general reputed as a spirited and a brave man?

A. I always looked upon him so, a very good soldier, the choice that General Ogilvie made of him, in making him serjeant-major, implies almost as much, as I should think.

Court. Q. Did you ever hear any imputation on his courage?

A. None, in any stile or line that I know of.

Colonel Cockburne. Q. Did you ever see the serjeant-major tried in fire?

A. No, I never did, I only give it as my opinion of the man.

Accuser. I have nothing more Sir Charles, in respect of this charge.

The Court cleared.

The Court resumed.

Adjourned to Monday, ten o'clock;

And afterwards adjourned to Saturday, ten o'clock.

Tenth Day's Proceedings.

Judge Advocate. Lieutenant-colonel Cockburne, I have in command to perform this painful part of my duty, to notify to you this public judgment, which the Court have found themselves, from the evidence, under a necessity of pronouncing. It is in these words:

The

The court-martial assembled to try Lieutenant-Colonel Cockburne having duly considered and weighed the evidence given in support of the charge, and also that which has been produced by him on his defence, are of opinion that he is guilty of the whole charge.

And the Court doth adjudge, that he the said Lieutenant-Colonel Cockburne be therefore cashiered, and declared unworthy of serving his Majesty in any military capacity whatever; and that the same be notified to the public at the head of the 13th and 15th regiments of foot, who were present at the time of the surprize, or otherwise at the head of whichever of the said regiments shall be conveniently situated to receive the same; and this Court Martial doth farther adjudge, that the charge of which the prisoner hath been convicted, shall, with the sentence, be declared in public orders, and circulated to every corps of his Majesty's service.

The Court has thought fit to superadd two observations relative to matters which were thrown out in Colonel Cockburne's defence, they think it but justice to observe, that Lieutenant Mackenzie has conducted himself with temper and propriety in vindicating himself from the insinuations thrown out against him in Colonel Cockburne's defence, and to declare that there has not been adduced a tittle of proof which has extended to derogate from the character of the said Lieutenant Mackenzie as an officer, or to impeach his credit as a witness.

The Court also think proper to declare, in justice to the 13th regiment of foot, that there does not ap-

pear to them any evidence that this company received any order from Colonel Cockburne, in which he was disobeyed.

The proceedings and judgment of this Court-Martial having been laid before the King, his Majesty has been pleased to express his entire approbation thereof, except in one article, which is with respect to its being publicly notified at the head of the 13th and 15th regiments of foot, on account of their being so dispersed and distant; his Majesty is graciously pleased to dispense with that part of the sentence, trusting his servants may be satisfied with this public declaration in open Court, in the presence of such of the officers of the garrison as can conveniently be assembled.

With respect to the other articles of the charge, that being, if proved in its utmost extent, only punishable by dismissal from the service, and as the present unfortunate situation has taken place, his Majesty does not see it necessary to go into an investigation of that part of the charge.

President to Colonel Cockburne. I am under the painful necessity of telling you, Sir, you are no longer to consider yourself as an officer of his Majesty.

Colonel Cockburne. The sentence tells me so, Sir.
President. It comes from me merely as President; I am also to tell you, Captain Rogerion, in this public Court, that there is not the least shadow of imputation upon you in any shape whatever; and we hope, that delivering this, in this public manner, will satisfy you, and clear you to the world.